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Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, May 17, 1971*

The House met at 12 o'clock noon.

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

Now, O God, strengthen Thou my hands.—Nehemiah 6: 9.

O Thou who givest wisdom to the wise, strength to the strong, and healing to those who turn to Thee for help, grant that Thy spirit may dwell richly within us as we come to Thee with praying hands and penitent hearts. Sustain our spirits in our struggle to discover the best ways to keep the flag of freedom flying in our world and to promote the blessings of democracy in every land.

Kindle within us a higher desire and a stronger determination to walk in the ways of Thy spirit that with Thee we may be upheld when we would fall, strengthened when we become weak, and encouraged when we would give in to discouragement. Keep us strong in Thee and in the power of Thy might: Through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1681. An act to liberalize eligibility for cost-of-living increases in civil service retirement annuities; and

S. 1700. An act to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day.

The Clerk will call the first bill on the Consent Calendar.

ADDITIONAL ASSISTANT SECRETARY OF THE INTERIOR, DEPARTMENT OF THE INTERIOR

The Clerk called the bill (H.R. 6993) to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Colorado would give us a brief explanation of this bill.

Mr. ASPINALL. Mr. Speaker, if the gentleman from Iowa will yield, the purpose of H.R. 6993 is to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior and to abolish the present position of Assistant Secretary for Administration.

The reason for this is to elevate it from one grade up to another grade so that there would be an equality of political power and authority among the Assistant Secretaries.

Mr. GROSS. Is this an additional assistant, if one is to be upgraded?

Mr. ASPINALL. Mr. Speaker, if the gentleman will yield further, it provides in the one bill for an additional Assistant Secretary and the abolishment of an existing Assistant Secretary.

The bill abolishes the position of Assistant Secretary for Administration and substitutes for it the position of a new Assistant Secretary of the Interior whose duties will include the duties of an Assistant Secretary for Administration, but not necessarily be limited to those duties. Appointments to the position will be made by the President with the advice and consent of the Senate, and the salary will be at level IV of the executive pay scale. The increase in compensation is about $2,000 per year.

The Department takes the position that placing the Assistant Secretary responsible for administrative matters on the same level as the other Assistant Secretaries will substantially enhance his effectiveness in carrying out his functions, particularly in dealing with the other Assistant Secretaries. Our committee agrees with this position and recommends the enactment of this bill.

At the proper time if this bill is permitted to pass, by unanimous consent I will offer an amendment which will take care of a technical error that is presently in the bill.

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

Mr. GROSS. Mr. Speaker, I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I want to say in way of further explanation that the number of Assistant Secretaries will actually remain at the same number, as per section 3 of the bill, wherein it says, in part, that "effective upon confirmation by the Senate of the Presidential appointee," so that this would be, other than the administrative duties, the same position which is created by this amendment, and then only will the Assistant Secretary for Administration, no longer continue in being.

So actually what this bill does, as I understand it, in talking to the Department and to the distinguished chairman—who has said the same thing but in other words—I will say to my friend, the gentleman from Iowa; is that it upgrades the responsibilities of the position and makes it one of a Presidential appointment instead of a secretarial appointment, and requires confirmation by the Senate. And it is in the upgrading of all five of the ultimate remaining assistant secretary positions and their responsibilities, that the $2,000 a year will be involved.

I am also delighted, as long as the gentleman from Iowa has yielded, that the chairman, the gentleman from Colorado (Mr. ASPINALL) has explained the expected Consent Calendar amendment as to what that would provide, and to which I agree, inasmuch as it is just a technical amendment.

Again I appreciate the gentleman from Iowa yielding.

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

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 6993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be hereafter in the Department of the Interior, in addition to the Assistant Secretaries now provided by law, an additional Assistant Secretary of the Interior who shall be appointed by the President by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

SEC. 2. Section 5315, title 5, United States Code, is amended by striking the figure "(5)" at the end of item (18) and by inserting in lieu thereof the figure "(6)".

SEC. 3. Section 4 of Reorganization Plan

Numbered 3 of 1950, as amended (64 Stat. 1262), is repealed, effective upon the confirmation by the United States Senate of a Presidential appointee to fill the position created by this Act.

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 6993, a bill to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior.

Essentially, this legislation upgrades the present position of the Assistant Secretary of the Interior for Administration, by increasing the number of Assistant Secretaries authorized in the Department of the Interior from five to six, changing the appointive procedure, and changing the rate of compensation from level V to level IV of the Executive Pay Schedule. The position of the Assistant Secretary of the Interior for Administration was created by section 4 of the Reorganization Plan No. 3 of 1950 and termed "Administrative Assistant Secretary of the Interior." Subsequently, the title of the office was changed to the present title of Assistant Secretary of the Interior for Administration.

The present Assistant Secretary of the Interior for Administration is appointed by the Secretary of the Interior with the approval of the President. The Assistant Secretary for Administration is responsible for a variety of functions. These functions include budget and management operations and survey and review, which concern the entire Department, in addition to being involved in substantive policy and routine administrative matters.

The Department's testimony expressed a need for this legislation on the basis of substantive policy and efficient management considerations. Since the functions of the office cut across the entire Department and involve both policy and administrative matters, there is a need to place this office on the same level as the other Assistant Secretaries of the Interior. I think we can all agree that because the present office involves both policy and administrative functions affecting the other Assistant Secretaries, this legislation, when enacted, will enhance the effectiveness of the new Assistant Secretary in dealing with the other Assistant Secretaries and in the performance of his overall responsibilities.

The position of an additional Assistant Secretary of the Interior created by this legislation will be appointed by the President with the advice and consent of the other body. He will be responsible for those duties assigned by the Secretary of the Interior, and it is intended that he will assume the functions and duties currently assigned to the Assistant Secretary for Administration.

Mr. Speaker, this legislation will involve an additional Federal expenditure of $2,000 per year. Nevertheless, I think the legislation is meritorious and I urge its passage.

AMENDMENT OFFERED BY MR. ASPINALL

Mr. ASPINALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPINALL: Page 2, line 7, strike out "is" and insert ", and item (25) of section 5316, title 5, United States Code, are".

Mr. ASPINALL. Mr. Speaker, the amendment is purely technical and perfecting in nature. The bill as reported by the Committee on Interior and Insular Affairs abolishes the position of Assistant Secretary of the Interior for Administration—established by section 4 of Reorganization Plan No. 3 of 1950—but fails to repeal the item in the Executive Pay Act that establishes the salary for the position. The amendment offered merely repeals the salary provision that is abolished. It is entirely perfecting in nature.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1399) to establish within the Department of the Interior the position of an additional assistant Secretary of the Interior.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1399

An act to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be hereafter in the Department of the Interior, in addition to the Assistant Secretary now provided for by law, an additional Assistant Secretary of the Interior who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

SEC. 2. Section 5315, title 5, United States Code, is amended by striking the figure "(5)" at the end of item (18) and by inserting in lieu thereof the figure "(6)".

SEC. 3. Section 4 of Reorganization Plan Numbered 3 of 1950, as amended (64 Stat. 1262), is repealed, effective upon the confirmation by the United States Senate of a Presidential appointee to fill the position created by this Act.

AMENDMENT OFFERED BY MR. ASPINALL

Mr. ASPINALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPINALL: Strike out all after the enacting clause of S. 1399, and insert in lieu thereof the provisions of H.R. 6993, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6993) was laid on the table.

REMOVING CERTAIN LIMITATIONS ON THE GRANTING OF RELIEF TO OWNERS OF LOST OR STOLEN BEARER SECURITIES OF THE UNITED STATES

The Clerk called the bill (H.R. 6077) to remove certain limitations on the granting of relief to owners of lost or stolen bearer securities of the United States, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I have had occasion to study this bill for several weeks, and indeed the distinguished gentleman from Connecticut and the distinguished gentlewoman from New Jersey have both discussed it with me and, as I understand, with others.

Originally I had a very real reservation about the bill as written, and I make this reservation of objection at this time, Mr. Speaker, in order to establish on the floor the legislative record that I believe is pertinent and important to implementing the regulations subsequently by the Department.

I know well that this bill is also scheduled for consideration under suspension of the rules today, and I take this time now, instead of asking that this bill be put over without prejudice, only in the belief that in view of the correspondence from the distinguished gentleman from Connecticut, and in view of my conversations with others, that mayhap we can now obtain unanimous consent that this bill go through.

Mr. Speaker, my original objection as the bill is written, and as one would interpret it on the face thereof, is that it would encourage speculation in the form of destroying, or mutilating, or losing by fire, or otherwise; a bond that had not reached maturity. But this may be of questionable value, to the point where it would actually aid and abet the destruction of government issues, by individual investors or larger organizations who felt an instrument was worth more now than at maturity.

I have been assured that perhaps this would not be the case, and I would be delighted to yield to the gentleman from Connecticut (Mr. MONAGAN), to explain this further as, indeed, he has explained to me in correspondence.

Mr. MONAGAN. Mr. Speaker, I thank the gentleman from Missouri for yielding.

Mr. Speaker, as I understood it, the basis of the gentleman's question was the fear that relief might be offered by the Secretary of the Treasury in the form of cash at some time prior to maturity. I can assures the gentleman that such action would not be possible and is not contemplative under this bill.

In the hearings, on page 15, Mr. Carlock of the Treasury testified that "relief would be granted either in the form of a substitute security marked 'duplicate,' that is in the case before maturity or in payment after the security was matured."

That, it seems to me, is a definite statement.

But in addition to that, we have secured from the Secretary of the Treasury, Mr. Connally, a letter to the same effect which states as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., May 13, 1971.

Hon. CHET HOLIFIELD,
Chairman, House Government Operations Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that questions have been raised concerning the way in which the Treasury will grant relief under H.R. 6077. The bill would amend existing law to authorize the Secretary to grant relief on account of the loss or theft of bearer Treasury securities before maturity.

At the present time the Secretary is authorized to grant relief on account of the loss or theft of registered securities before as well as after maturity; he is authorized to grant relief on account of the loss or theft of bearer securities only after maturity. Treasury regulations have provided for many years that relief before maturity will be in the form of issuance of a duplicate security, whereas relief after maturity will be in the form of payment. I can assure you that when the bill is enacted, the present plan of the regulations will be continued so that relief before maturity, in the case of both registered and bearer securities, will be in the form of issuance of a duplicate security, and relief after maturity will be in the form of payment.

There has also been some suggestion that the bill will benefit only large financial institutions. The bill will of course authorize the same relief for small individual investors as for large financial institutions. The purpose behind the bill, however, is not to benefit any particular group of investors, but rather to foster a market in Government securities that will assure to the taxpayers of the Nation the most economical management of the public debt.

From the point of view of small individual investors, while they do not constitute a large part of the market for Treasury securities, it is important that the market function smoothly, for they are dependent on it for handling the securities they wish to buy and sell. From the point of view of the Treasury, however, with its responsibility for managing the public debt, not in the interest of any group of investors but in the interest of the taxpayers, it is absolutely essential that the market function at optimum efficiency because the Treasury is totally dependent on this market mechanism in its financing operations.

The market for Government securities is, as the word implies, subject to all the pressures of the market place. To whatever extent costs and risks of the participants can be eliminated, the taxpayers rather than the participants will be the ultimate beneficiaries. It is therefore incumbent upon the Government to take all steps possible to reduce the risks and the costs of the financial institutions which are the principal intermediaries making up that market.

It is for these reasons that the Treasury proposed legislation which has become H.R. 6077. Through the bill the Federal Government will simply provide with respect to Government securities a facility that every issuer of securities had at common law and that the statutes of virtually every State provide with respect to the State's securities.

I earnestly urge the prompt enactment of the bill.

Sincerely yours,

JOHN CONNALLY.

Mr. HALL. Mr. Speaker, I, too, have a copy of the letter of the date May 13 from the Secretary of the Treasury and the gentleman has provided me a letter over his own signature of similar date, enclosing a marked copy of the committee's hearings including testimony given as the result of a direct question by the subcommittee chairman to a Mr. Carlock, representing the U.S. Treasury before his subcommittee of Government Operations.

I would still prefer that it be stated in the legislation, but in view of this excellent legislative record and statement of implementing intent, I withdraw my reservation of objection.

Mr. MONAGAN. Mr. Speaker, H.R. 6077 authorizes the Secretary of the Treasury to replace lost or stolen Government securities immediately upon notification, upon being furnished a sufficient bond of indemnity, rather than requiring the owner to wait until the securities have reached maturity. This measure was introduced in the House on March 15, 1971, by the distinguished chairman of the House Government Operations Committee, the gentleman from California (Mr. HOLIFIELD), for himself and the ranking minority member of the committee, the gentlewoman from New Jersey (Mrs. DWYER). Hearings were held by the Legal and Monetary Affairs Subcommittee, which I chair, on March 30, and the bill was favorably reported by the Government Operations Committee on April 22, 1971.

H.R. 6077 is identical to S. 1181 which was favorably reported by the Committee on Banking, Housing and Urban Affairs of the other body on March 16, 1971, and passed in that body on March 19.

The authority that this legislation provides to the Secretary of the Treasury to replace lost or stolen Government securities prior to maturity is identical to that of the Securities authorities of 48 of the 50 States. Under section 8 of the Government Losses in Shipment Act (31 U.S.C. 738(a)(d)), which this bill amends, the Secretary cannot replace a lost or stolen security before maturity. The power of the Secretary to grant relief prior to maturity is presently limited to cases where bearer securities are clearly proven to have been destroyed. Where there is a probability of loss or theft, the Secretary may grant relief only after maturity and only if he finds that sufficient time has elapsed as in his judgment would indicate that the securities: First, have been destroyed or irretrievably lost; second, are not held by any person as his own property; and third, will never become the basis of a valid claim against the United States.

As under present law, H.R. 6077 provides that as a condition of relief, persons who are granted relief either in the form of a replacement security prior to maturity or payment on a security at or after maturity, are required to provide to the Treasury Department a bond of indemnity. The legislation specifies that the bond of indemnity shall be in such form and amount and with such surety, sureties or security as the Secretary of the Treasury shall require. The required bond of indemnity affords the Government complete protection against the risk of double payment by the Treasury Department. In other words, the Government incurs no additional risk or cost by enactment of this legislation. On the contrary, the Treasury Department, which initially proposed legislation along these lines in December, 1970, has testified that between fiscal years 1972 and 1976, inclusive, there will be a net administrative savings of $51,000 by virtue of enactment of this measure. During fiscal year 1972 the Department states it will incur an additional cost of $8,500 but that the gross cost savings of $59,500 between fiscal years 1973 and 1976 will offset that sum. Savings result from decreases in analyst positions and reduced communications between the Department and claimants.

A primary purpose of H.R. 6077 is to underpin the stability of the market in Government securities and assure the flexibility and liquidity of these securities. Over the past few years an increasing number of thefts of Government securities has caused a certain unsettling of the market's stability. In 1966 $4,023,000 in claims on account of loss, stolen or destroyed Treasury and agency securities were filed with the Treasury Department. In 1969 the total climbed to $32,748,000 while in 1970 there was a slight decrease to $30,654,600. Since under present law claims filed on account of lost or stolen bearer securities must wait until the maturity date to obtain payment from the Treasury Department, claimants are deprived of the use of the security for purposes of collateral or pledge between the time of loss or theft and maturity. This legislation will enable owners of lost or stolen bearer securities to utilize the value of the securities by obtaining a duplicate or substitute security from the Treasury Department upon the furnishing of a bond of indemnity.

While the primary purpose of this leglation is to remove limitations on the granting of relief on account of lost or stolen bearer securities, it is drafted as a complete revision of the existing statute in order to streamline that statute and eliminate provisions which concern form and procedural detail rather than substance. In addition, H.R. 6077 precludes the granting of relief on account of interest coupons which are claimed to have been attached to a security unless the Secretary is satisfied that: First such coupons have not been paid; and, second, are in fact destroyed or will not become the basis of a valid claim against the United States.

H.R. 6077 provides the Treasury Department with a necessary tool to buttress the stability of the market mechanism upon which it depends for its financing operations; it streamlines the present awkwardly worded statutory authority; it brings the Treasury Secretary's authority on par with that of his State counterparts in a great majority of the States; and it does achieve administrative cost savings for the Treasury Department.

It is my intention to ask for consideration of S. 1181, which is identical to H.R. 6077 immediately following passage. I urge my colleagues in the House to support this legislation.

Mr. STEIGER of Arizona. Mr. Speaker, I rise in support of H.R. 6077. I will not

take the time of the House to reiterate the technical analysis of the bill so ably set forth by my chairman, the gentleman from Connecticut.

However, let me state again what the bill would do and let me emphasize that what would be accomplished would be at no risk or cost to the United States.

By authorizing the Secretary of the Treasury to grant relief on account of the loss or theft of bearer Treasury securities before maturity the bill would encourage continued wide participation in the market in Government securities. As it now is, the risks of financial loss faced by financial institutions may drive them from the market with a consequent impairment of the market mechanism on which the Treasury is totally dependent in its financing operations. We cannot afford to have any of these institutions withdraw from the market. These are people on whom we have to rely.

The beneficiaries of the legislation would be primarily the taxpayers of the Nation who would benefit from the most economical management of the public debt. If large financial institutions will benefit from the legislation, it will only be because the same relief will be authorized for all investors—large or small. The taxpayers rather than the participants in the market will be the ultimate beneficiaries.

Moreover, the stabilizing effect on the market will be at no risk to the Government. A bond of indemnity will be obtained in every case in which relief is granted to protect the United States against double payments.

Beyond that, the bill, as the committee report indicates, would improve the wording of the present statutory authority, it will provide with respect to Government securities a facility that issuers of securities had under common law and which is presently provided by virtually every State with respect to its securities, and it will do all this while saving administrative costs for the Treasury.

The Government is to be congratulated for recommending this legislation. My memory does not serve to recall another instance where the Government has acted in advance of a problem and at no cost.

I support this legislation and urge its passage.

Mrs. DWYER. Mr. Speaker, I rise in support of H.R. 6077 which I have joined Chairman HOLIFIELD in introducing. The bill is identical to a draft bill transmitted by the Treasury and is identical to S. 1181 which has been passed by the Senate.

The purpose of the bill is to minimize to the extent possible, risks of certain financial losses which now threaten the withdrawal of participants from the Government securities market.

Although narrow in its application, the proposed legislation is important to the continued healthy functioning of a large and intricate mechanism for Treasury financing.

Under present law, the transferability and liquidity of Government bearer obligations are impaired by the inability of the Treasury to replace such securities prior to maturity when they are lost or stolen. As a consequence holders run a risk that they will be deprived of the use of these securities or money equivalent from the time of loss or theft until maturity and are thus discouraged from further participation in the market. The consequent contraction of the market would impair the ability to serve the growing financial demands of the Government.

The bill before us today would enable the Secretary of the Treasury to replace Treasury certificates immediately upon loss or theft thus restoring to the market participant the use of the securities or their value for the balance of the period until maturity. The United States would be protected against double payment by recovery under the bond of indemnity that would be required in every case in which relief is granted.

Not only would the Government be protected against financial risk, but, as the committee report accompanying the bill indicates, it would achieve administrative cost savings for the Treasury Department.

I wholeheartedly endorse this measure and urge its enactment.

Mr. HORTON. Mr. Speaker, I rise in support of H.R. 6077. The bill embodies an administration proposal intended to mitigate an unsettling of the Government securities market resulting from the operation of present law. Presently owners of lost or stolen bearer securities of the United States must wait until the securities have reached maturity before being reimbursed by the Government. In the interim certain losses accrue to claimants who are deprived of the use of the securities and to insurers who are deprived of the use of funds. This bill, by enabling the Secretary of the Treasury to immediately reimburse owners of lost or stolen bearer securities which have not matured, would diminish the risk of financial loss faced both by market participants and their insurers. Continued participation in the market by such financial institutions would thereby be encouraged and the mechanism for marketing Government securities would tend to function more smoothly.

Not only would the bill thus help maintain the health of the market in Government securities, but in the long run it will result in savings to the Government by the elimination of the administrative handling of claims for relief being held in suspense.

Enactment of the bill will not result in any financial risk for the Government because a bond of indemnity will be obtained in every case in which relief is granted.

I therefore urge the passage of H.R. 6077.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 6077. As a revision of the Government Losses in Shipment Act, this bill will streamline the present statutory authority of the Secretary to grant relief on account of lost or stolen U.S. bearer securities. The primary substantive revision enables the Secretary to grant relief before maturity. Relief granted prior to maturity will be in the form of a substitute security marked "duplicate." The Secretary will continue to have the authority to grant relief at or after the maturity date of a U.S. bearer security by payment on the security. In any event, H.R. 6077, as well as S. 1181 which is identical, requires that as a condition of relief a claimant furnish the Treasury Department with a bond of indemnity which shall be in such form and amount and with such sureties or security as the Treasury Secretary shall require. The requirement of a bond of indemnity, which applies in all cases where the Secretary of the Treasury grants relief under the provisions of this bill, provides the Federal Government with complete protection in the case of double payment by the Treasury Department.

Another important aspect of this bill is that it brings the authority of the Secretary of the Treasury on par with that of the Securities Commissioners of the great majority of the States which allow the granting of relief prior to maturity on account of lost or stolen State or municipal bearer securities. Testimony and exhibits submitted by the Treasury Department in hearings before the Subcommittee on Legal and Monetary Affairs of the House Government Operations Committee established that 48 of the 50 States have laws which are not limited and do not prohibit, as does the present Federal law, the granting of relief prior to maturity on account of lost or stolen State or municipal bearer securities.

H.R. 6077 does not deal with the prevention of losses or thefts of U.S. bearer securities nor with the minimization of the paper flow which gives rise to greater risks of securities thefts. However, the Federal Reserve System, in cooperation with the Treasury Department, has instituted a "book-entry procedure" which seeks to minimize the flow of paperwork by recording Government obligations on the computerized books of a Federal Reserve bank, thus eliminating the risk of loss and theft of Government securities. An additional significant benefit that will result from further implementation of the book-entry procedure will be the savings that result from reduced printing and processing of paper documents. Approximately 50 percent of the marketable public debt of the U.S. Government is now contained and recorded in the book-entry system of the Federal Reserve banks. The committee report on H.R. 6077 stated:

> There is great merit in the book-entry procedure and recommended that it be expanded with all practicable speed and with adequate safeguards against unwarranted accessibility.

In sum, passage of H.R. 6077 and further implementation of the book-entry procedure will accomplish two salutary objectives: First, underpin the stability of the market in Government securities; and second, make the procedures for transfer of ownership of Government securities more efficient and economical. I urge enactment of this legislation.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 6077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (a) through (d) of section 8 of the Government Losses in Shipment Act, as amended (31 U.S.C. 738a), are amended to read as follows:

"(a) Under such regulations as he may deem necessary for the administration of this section, the Secretary of the Treasury is authorized to grant relief on account of the loss, theft, destruction, mutilation, or defacement of any security identified by number and description.

"(b) A bond of indemnity shall be required as a condition of relief, whether before, at, or after maturity, on account of any security payable to bearer or so assigned as to become, in effect, payable to bearer which is not clearly proven to have been destroyed. The bond of indemnity shall be in such form and amount and with such surety, sureties, or security, as the Secretary of the Treasury shall require.

"(c) No relief shall be granted on account of interest coupons claimed to have been attached to a security unless the Secretary is satisfied that such coupons have not been paid and are in fact destroyed or will not become the basis of a valid claim against the United States.

"(d) The term 'security' means any direct obligation of the United States issued pursuant to law for valuable consideration, including bonds, notes, certificates of indebtedness, and Treasury bills, and interim certificates, issued for any such security."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of a similar Senate bill (S. 1181) to remove certain limitations on the granting of relief to owners of lost or stolen bearer securities of the United States, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill as follows:

S. 1181

An act to remove certain limitations on the granting of relief to owners of lost or stolen bearer securities of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (a)–(d) of section 8 of the Government Losses in Shipment Act, as amended (31 U.S.C. 738a), are amended to read as follows:

"(a) Under such regulations as he may deem necessary for the administration of this section, the Secretary of the Treasury is authorized to grant relief on account of the loss, theft, destruction, mutilation, or defacement of any security identified by number and description.

"(b) A bond of indemnity shall be required as a condition of relief, whether before, at, or after maturity, on account of any security payable to bearer or so assigned as to become, in effect, payable to bearer which is not clearly proven to have been destroyed. The bond of indemnity shall be in such form and amount and with such surety, sureties, or security as the Secretary of the Treasury shall require.

"(c) No relief shall be granted on account of interest coupons claimed to have been attached to a security unless the Secretary is satisfied that such coupons have not been paid and are in fact destroyed or will not become the basis of a valid claim against the United States.

"(d) The term 'security' means any direct obligation of the United States issued pursuant to law for valuable consideration, including bonds, notes, certificates of indebtedness, and Treasury bills, and interim certificates issued for any such security."

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6077) was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous material on the bill just passed.

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

There was no objection.

AMENDMENT OF SECTION 715 OF TITLE 32, UNITED STATES CODE, TO AUTHORIZE THE APPLICATION OF LOCAL LAW IN DETERMINING THE EFFECT OF CONTRIBUTORY NEGLIGENCE ON CLAIMS INVOLVING MEMBERS OF THE NATIONAL GUARD

The Clerk called the bill (H.R. 7616) to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard.

There being no objection, the Clerk read the bill as follows:

H.R. 7616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 715(b) of title 32, United States Code, is amended by striking out "; and" at the end of clause (4) and inserting in place thereof ", or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and".

Mr. DONOHUE. Mr. Speaker, the bill H.R. 7416 would amend section 715 of title 32 of the United States Code, so that its provisions concerning the effect of contributory negligence on the part of a claimant will be identical to the provisions of section 2733 of title 10. Section 2733 is known as the Military Claims Act and provides authority to the Secretary of a military department to settle claims arising from the noncombat activity of one of the armed services. Section 715 of title 32 provides similar authority to settle claims arising from the noncombat activity of the National Guard personnel.

Section 715 of title 32, in its present form, was added to the code in 1960 and was patterned after the provisions of section 2733 of title 10 and in fact concerns the same type of claims.

The same type of an amendment provided for in this bill was made to section 2733 during the 90th Congress. That amendment was added by Public Law 90–522, which was approved on September 26, 1968. As was noted in the report of the Air Force in the 91st Congress on an identical bill, through inadvertence, the parallel provisions of section 715 were not amended at that time. This bill would correct the omission.

Under section 715 of title 32, the Secretary of the Army or the Secretary of the Air Force is authorized to settle claims arising from the noncombat activity of the Army National Guard or the Air National Guard. The claims are therefore settled in the same manner as under title 10 concerning the active duty forces and the limitations and procedures are substantially the same. It is, therefore, logical that the provisions concerning contributory negligence and the application of local law in the settlement of claims should be identical in the two sections. The effect of the bill will be to provide that in claims submitted under the section relating to National Guard any negligence on the part of the claimant on his right to recover will be determined by local law. I might note that this is a somewhat parallel situation to that which exists concerning claims under the Federal Tort Claims Act. Under that act as codified in title 28 of the United States Code, a claimant may be paid in whole or in part for the damage or injury he suffered in accordance with the law of the place where the incident giving rise to the claim occurred. The amendment proposed in this bill is, therefore, a logical and necessary improvement and it is recommended that the bill be considered favorably.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO AMEND TITLES 5, 10, AND 32, UNITED STATES CODE, TO AUTHORIZE THE WAIVER OF CLAIMS OF THE UNITED STATES ARISING OUT OF CERTAIN ERRONEOUS PAYMENTS

The Clerk called the bill (H.R. 7614) to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I would merely like to inquire as to whether or not there is provision in this bill or in the report wherein the Comptroller General could waive overpayments above the $500 limitation?

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

Mr. HALL. I am glad to yield to my friend from Massachusetts.

Mr. DONOHUE. May I say to the gentleman from Missouri that the limitation insofar as the $500 figure is concerned exists only insofar as the departmental head is concerned. The department head may not waive any amount above the $500. A claim above that amount must be submitted to the Comptroller General. It is my understanding of the amendment before us that the Comptroller General may, in his discretion, waive any part of an overpayment due if he thinks the merit of the claim is worthy of it.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's statement, and I deduce therefrom that in the basic legislation which H.R. 7614 would amend, the prerogative for the Comptroller General waiving overpayment above $500 exists, and that this bill does not affect that.

Mr. DONOHUE. That is correct.

Mr. HALL. Then I have one additional question, Mr. Speaker, and that is, Is there any maximum waivable limit on the Comptroller General for an overpayment or recoupment thereof?

Mr. DONOHUE. My answer to the question is in the negative.

Mr. HALL. In other words, the Comptroller General may waive any amount if he thinks it is in the interest of the Government, if there is a meritorious case, and there is no fraud involved, et cetera, as stipulated in the bill?

Mr. DONOHUE. That is correct. I might suggest to the gentleman from Missouri that authority now exists insofar as applications by civilian employees for waiver of overpayments is concerned. This bill has to do only with the matter of granting the same authority for waiver of overpayments to personnel of the National Guard and of the uninformed services to the departmental heads and to the Comptroller General that now exists as to overpayments to civilian employees.

Mr. HALL. Mr. Speaker, I would think that is too much power, without any maximum ceiling thereon, for any one individual in Government, but inasmuch as it is existing law, and inasmuch as the bill will cut down the number of private bills relating to overpayments introduced in the House by individual Members, I shall withdraw my reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 7614

Be it enacted by the Senate and House of Pepresentatives of the United States of America in Congress assembled, That chapter 165 of title 10, United States Code, is amended—

(1) by adding the following new section:

"§ 2774. Claims for overpayment of pay and allowances, other than travel and transportation allowances

"(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after the effective date of this section, to or on behalf of a member or former member of the uniformed services, as defined in section 101(3) of title 37, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

"(1) the Comptroller General; or

"(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

"(A) the claim is in an amount aggregating not more than $500;

"(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and

"(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

"(b) The Comptroller General or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

"(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

"(2) if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of pay or allowances, other than travel and transportation allowances, was discovered.

"(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

"(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

"(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

"(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States."; and

(2) by adding the following new item at the end of the analysis:

"2774. Claims for overpayment and allowances, other than travel and transportation allowances."

SEC. 2. Chapter 7 of title 32, United States Code, is amended—

(1) by adding the following new section:

"§ 716 Claims for overpayment of pay and allowances, other than travel and transportation allowances

"(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after the effective date of this section, to or on behalf of a member or former member of the National Guard, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

"(1) the Comptroller General; or

"(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

"(A) the claim is in an amount aggregating not more than $500;

"(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and

"(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

"(b) The Comptroller General or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

"(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

"(2) if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of pay or allowances, other than travel and transportation allowances, was discovered.

"(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

"(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

"(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

"(f) This section does not effect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States."; and

(2) by adding the following new item at the end of the analysis:

"716. Claims for overpayment of pay and allowances, other than travel and transportation allowances."

SEC. 3. Chapter 55 of title 5, United States Code, is amended as follows:

(1) Section 5584 is amended by—

(A) Adding at the end of the catchline "and allowances, other than travel and transportation expenses and allowances and relocation expenses";

(B) inserting after "pay" in subsection (a) "or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title";

(C) striking out "or" at the end of subsection (b)(1);

(D) adding at the beginning of subsection (b)(2) the words "if application for waiver is received in his office," and by striking out from subsection (b)(2) "the effective date of this section" and inserting "October 21, 1968" in place thereof; and

(E) substituting "; or" for the period at the end of subsection (b)(2) and adding a new paragraph (3) to subsection (b) to read as follows:

"(3) if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of allowances was discovered or three years immediately following the effective date of the amendment authorizing the waiver of allowances, whichever is later."

(2) The analysis is amended by adding "and allowances, other than travel and transportation expenses and allowances and relocation expenses" after "pay" in item 5584.

Mr. DONOHUE. Mr. Speaker, the purpose of H.R. 7614 is to amend titles 10 and 32 of the United States Code, to provide uniform authority to relieve members of the uniformed services and the National Guard of erroneous payments of pay and allowances, other than

travel and transportation allowances, under certain conditions. The provisions concerning the uniformed services and the National Guard follow closely the language of section 5584 of title 5 of the United States Code which presently provides such authority for the waiver of claims against civilian employees for erroneous payments of pay. The bill would amend that section to provide parallel waiver authority for civilian employees as to allowances other than travel and transportation allowances and relocation expenses.

The bill, H.R. 7614, was introduced in accordance with the recommendations of an executive communication of the Department of Defense. It is almost identical to the bill, H.R. 13582, which passed the House in the last Congress. The language of the two sections this bill would add to titles 10 and 32 closely follows the language now found in section 5584 of title 5 of the United States Code. This section was added to title 5 by Public Law 90–616 in 1968 and authorizes the waiver of overpayments of pay of civilian employees of an executive agency when collection would be against equity and good conscience and not in the best interest of the United States. However, since the law did not refer to military personnel or personnel of the uniformed services the same relief cannot be granted them. Therefore, the basic purpose of this bill is to correct this inequity and provide the same type of waiver authority to uniformed services personnel as is now available to civilian employees.

As is outlined in the committee report, this bill provides waiver authority for pay and allowances other than travel and transportation allowances. The reference to such allowances was necessary in order to place uniformed services personnel on a par with civilian employees. The reason for this is that in addition to basic pay, personnel of the uniformed services receive regular nontravel allowances which actually form a part of the regular military compensation received by them. Still, there are instances where civilian personnel are paid a similar type of allowance so it is proper that the waiver authority of title 5 extend to this type of allowance. The bill therefore provides for the necessary amendment of section 5584 of title 5.

The allowances included within the waiver authority provided in this bill do not include travel and transportation allowances of military personnel. Similarly, the waiver will not extend to travel and transportation allowances and relocation expenses of civilian personnel. The committee concluded that the allowances of this category are not regular payments received by the individual, but rather are allowances paid in connection with a single move. They therefore are special allowances rather than a regular payment which is more in the nature of pay. This aspect of the bill was noted in reports to the committee and in testimony received in a 91st Congress hearing. On the advice of the General Accounting Office, the committee at that time limited the waiver authority in the same manner as is now defined in the bill.

I feel that the considerations which prompted the enactment of Public Law 90–616 which added section 5584 concerning waiver of civilian pay to title 5 are clearly relevant to the bill now being considered. The legislative history of that law reflects an awareness of the need for this waiver authority under present day conditions. The Senate report on the bill which was enacted as Public Law 90–616 observed that employees who received payments in good faith are unaware of any error when such administrative errors are made in interpreting those laws, and that waiver authority provides a practical and just solution in many instances. That report pointed out that a general policy should be established, to waive such claims rather than limiting relief to the ofttime uncertain remedy of private legislation. That policy has been established by the Congress in the enactment of waiver authority for overpayments to civilian employees. It is only right and equitable that equivalent authority be granted concerning overpayments to members of the uniformed services. H.R. 7614 has been carefully drafted to accomplish this result. I urge that the bill be favorably considered.

Mr. FISHER. Mr. Speaker, the purpose of H.R. 7614, as reported is to amend titles 5, 10, and 32 of the United States Code to provide uniform statutory authority to relieve members of the uniformed services and the National Guard of erroneous payments of pay and allowances, other than travel and transportation allowances, under certain conditions.

In short, existing law contains adequate authority to permit the waiver of claims for overpayments of pay for civilian employees of the Federal Government—5584 of title 5. This authority would now be extended to include members and former members of the uniformed services.

Existing law does not provide adequate authority to the Secretaries of the military departments to remit or cancel indebtedness of uniformed services personnel in all cases in which equity and good conscience suggest that such action would be in the best interest of the U.S. Government.

As a consequence of this deficiency, the House Armed Services Committee favorably reported, during the 90th Congress, H.R. 2629, House Report No. 1304, a bill which would have satisfied this deficiency in the statutes. This legislation was passed by the House unanimously on May 6, 1968. Unfortunately, the Senate failed to act on the legislation and it died with the termination of the 90th Congress.

The proposal before the House today is one reported favorably by the Judiciary Committee and would have a similar objective to that contained in H.R. 2629, previously passed by the House.

FEATURES OF THE BILL

1. WAIVER AUTHORITY

The authority to waive overpayments, and so forth, will be vested in the Secretary of the service concerned, when the amount does not exceed $500.

If the amount exceeds $500, the remission authority will be vested in the Comptroller General.

2. CRITERIA FOR WAIVER

Waivers would be authorized in instances where an erroneous payment was received in good faith and without any wrongdoing on the part of the person involved.

3. RETROACTIVITY

Action to obtain a cancellation or remission of indebtedness must be made within 3 years of the discovery of the overpayment. This relatively short retroactive feature was established by the committee to preclude an avalanche of claims previously denied.

4. FREQUENCY OF USE

It is impossible to predict with any certainty the number of cases which might arise under this authority. However, based upon current departmental experience, it is believed that the occasion for use of this authority would be relatively small in number. See page 4 of House Report No. 1304 on H.R. 2629.

Enactment of the legislation will not result in any requirement for increased appropriations for the Department of Defense.

The executive branch supports enactment of the legislation.

H.R. 7614 will, if enacted, provide members and former members of the uniformed services with the same opportunity to obtain waiver or remission of indebtedness now provided civilian employees of the Federal Government.

In the absence of this legislative enactment, there will be no adequate relief available to provide for meritorious cases other than through private relief legislation.

In view of these circumstances, and since the Committee on Armed Services and the House of Representatives has previously acted favorably on legislation which has this objective, I urge its approval by the House of Representatives.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LABOR-MANAGEMENT DISPUTES IN THE TRANSPORTATION INDUSTRY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92–112.)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

After extended efforts at settlement the Nation is once more confronted by an emergency arising from an unresolved labor dispute in the railroad industry. The dispute involves disagreement over wages, hours and working conditions between the Brotherood of Railway Signalmen representing approximately 10,000 employees and the National Railway Labor Conference representing the Nation's railroads. Throughout the course

of negotiations, the parties have had the assistance of the Federal Government in their efforts to resolve their differences. Now, all existing governmental procedures for resolving this dispute have been exhausted and the union has called a nationwide work stoppage this morning, May 17, 1971.

A nationwide stoppage of rail service would cause great hardship to all Americans and strike a serious blow at the Nation's economy. It is essential that our railroads continue to operate. I had hoped for a voluntary negotiated settlement of this dispute; however, this was not forthcoming. I am, therefore, recommending that Congress enact legislation which would extend the present negotiations until July 1, 1971. Such a recommendation is not only consistent with the national interest in continued rail service but preserves the processes of free collective bargaining. I have asked the Secretary of Labor to follow closely the situation as it develops, to continue assisting the parties and, if no settlement has been reached, to report to me and the Congress by June 21, 1971.

It is indeed regrettable that Congress must act once again to forestall another in a long line of crises occurring in the railroad industry. This situation reemphasizes the chaotic nature of collective bargaining in the transportation industry as it functions under existing legislation. The time has long since passed for active consideration and action by the Congress on the proposals which I have twice presented to it to resolve emergencies such as this in an equitable and conclusive manner and, thus, to preclude the necessity of Congressional action on each individual dispute. It is inexcusable that the Nation should continue to pay the price of archaic procedures for the resolution of labor-management disputes in the transportation industry.

However, pending such action, I must urge that Congress act immediately on the proposal we are now presenting so that a crippling stoppage can be averted and the Nation can continue to have rail service.

RICHARD NIXON.

THE WHITE HOUSE, *May 17, 1971.*

"PART OF THE FAMILY"

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

Mr. MOORHEAD. Mr. Speaker, "Part of the Family," a most powerful and moving television production, was previewed in Washington last week at the headquarters of the Corporation for Public Broadcasting.

This program eulogizes three young persons whose lives were lost, one in Vietnam, one at Jackson State, and one at Kent State, when they were caught in the cross-fire of our Nation's political and social crises.

"Part of the Family" is an intense, private look into the reactions of the family members to the death of one of their loved ones.

The show will be broadcast nationwide on educational television at 8:30 p.m. on Wednesday evening, May 19. It can be seen locally at that hour on channel 26, WETA.

I urge all of my colleagues to watch this show and then ask themselves, as I have asked myself, how can we in Congress continue to let the war in Vietnam literally and figuratively kill off the hope and strength that is America?

PROPER TREATMENT OF CAPITOL POLICEMEN FOR OVERTIME DUTY

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

Mr. GONZALEZ. Mr. Speaker, a few weeks ago, not too long after the bombing incident of March 1, in the Senate, I addressed the House to point out that a gross injustice was being committed with respect to the men who serve as Capitol policemen. In fact, they were the only ones I could find who were not being compensated for overtime work.

In the case of many of these dedicated men, they had served extra hundreds of hours without any kind of extra compensation.

I am very happy to announce that thanks to the help we received from some of our colleagues, our collegue, the gentleman from New Jersey (Mr. HUNT) and a few others, we finally got some action.

I have been informed by the distinguished majority leader that the Senate has acted on a measure to provide recognition of the need for overtime pay for our Capitol policemen. I urge our leadership and colleagues in the House to take immediate action so that we can rectify this inequity.

LET US REMEMBER OUR PRISONERS OF WAR

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

Mr. CÓRDOVA. Mr. Speaker, 7 years and 52 days ago today, Capt. Floyd Thompson was captured in South Vietnam, and thus became the first American prisoner of war in Southeast Asia. In the intervening years many hundreds of other Americans, including several of my own constituents, have joined him in his unhappy status. Let us reassure them all of our concern, of our resolve to do whatever needs to be done to put an end as soon as possible to the long days, months, and years of cruel imprisonment that our brothers are suffering in North Vietnamese prison camps. Above all, let us see to it that their fate and their interests are kept prominently in mind, particularly as we seek to evolve and carry out a policy to terminate our engagement in Southeast Asia.

AUTHORIZING APPROPRIATIONS FOR THE COMMISSION ON CIVIL RIGHTS

Mr. CELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7271) to authorize appropriations for the Commission on Civil Rights.

The Clerk read as follows:

H.R. 7271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106 of the Civil Rights Act of 1957 (71 Stat. 636; 42 U.S.C. 1975e) as amended, is further amended to read as follows:

"For the purposes of carrying out this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, the sum of $4,000,000, and for each fiscal year thereafter until January 31, 1973, the sum of $4,000,000."

The SPEAKER. Is a second demanded?

Mr. POFF. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

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

(Mr. CELLER asked and was given permission to revise and extend his remarks.)

Mr. CELLER. Mr. Speaker, this bill (H.R. 7271) increases the annual authorization for the Commission on Civil Rights from $3.4 million to $4 million—a total of $600,000.

The measure has been cosponsored by the gentleman from Virginia (Mr. POFF) and its enactment is supported by the Department of Justice and the Office of Management and Budget. It is a bipartisan effort. The measure was approved without dissenting vote by a Judiciary Subcommittee and ordered favorably reported without amendment by the full Committee on the Judiciary on a voice vote.

Mr. Speaker, in 1967, the term of the Commission on Civil Rights was extended to January 31, 1973, and a ceiling on annual appropriations was set at $2,650,000. That authorization ceiling corresponded to the Commission's appropriations for fiscal year 1968 and was added by the Senate to a House-passed bill for the purpose of limiting future activities of the Commission to the level of 1968 operations. The 91st Congress recognized the inadequacy of the authorization limitation in view of Federal salary increases and other rising costs. Accordingly, Public Law 91-521 raised the appropriations ceiling to $3.4 million per annum to enable the Commission on Civil Rights to function at its 1968 operating level.

H.R. 7271, the instant bill, raises the current statutory ceiling by $600,000 to $4 million to permit the Commission to expand its program to include new subjects of civil rights concern and to allow the opening of a field office to serve the Northern and Central Plains and Mountain States located in an area enabling service to a large segment of the American Indian population.

The following list sets forth new projects proposed to be undertaken by the Commission in fiscal year 1972:

U.S. COMMISSION ON CIVIL RIGHTS

PROPOSED NEW PROJECTS, FISCAL YEAR 1972

1. A study of political participation by minority group members in selected states during the Spring of 1972, including the evaluation of the effects of the extended Voting Rights Act.

2. A study of equal protection of the laws in Sate, local, and Federal correctional institutions effecting prisoners generally and minority group prisoners particularly.

3. A study of equal opportunity in the military service.

4. A study assessing the effectiveness of Government efforts to eliminate restrictive employment practices required or supported by unions and internal restrictive union practices which limit minority employment, promotion, and union participation.

5. A study examining the extent to which health services are provided to minority citizens on a nondiscriminatory basis.

6. Current discussion guides to be used by adult groups dealing with specific civil rights issues in such fields as education, housing, and employment.

7. A publication describing examples of successful use of civil rights laws to achieve equal opportunity.

8. Two films dealing with Mexican Americans and the general topic of racism.

9. A seventh field office covering the North and Central Plain and Mountain States will be opened. This office will be located where it can service a large proportion of the American Indian minority.

Mr. Speaker, I think it should be noted that the budget request for the Commission on Civil Rights for fiscal 1972 appropriations submitted with the approval of the Office of Management and Budget is $3.8 million—$400,000 in excess of the current statutory authorization. H.R. 7271, the bill under consideration, authorizes annual appropriations of $4 million—$200,000 above the current budget submission in order to enable the Commission to participate in any Governmentwide supplemental appropriation request made necessary by mandatory Federal salary increases. It is estimated that the increased authorization would entail an additional cost not more than $600,000 for fiscal 1972. Unless the term of the Commission is extended beyond the expiration date of January 31, 1973, it is expected that fiscal 1973 appropriations will be a proration of this amount.

There is a continuing need for an independent agency objectively to appraise and report on the changing and complex status of civil rights, to assess the progress that has been made and to indicate the areas where the denial of equal rights persists. The Congress, and the House Committee on the Judiciary in particular, has relied on the outstanding and vigorous program of factfinding which the Commission has performed. Its reports and recommendations have furnished essential data for legislation and executive action undertaken during the past decade to assure equal rights. H.R. 7271 will provide needed financial support which the Commission must have to function effectively over the next year and a half.

Mr. Speaker, before relinquishing the floor, it is appropriate to observe that today is a particularly fitting occasion on which to add a modest increase of financial support for the operation of the Commission on Civil Rights. Today, May 17, 1971, marks the 17th anniversary of the historic decision of the Supreme Court in Brown against Board of Education. That decision abolished the concept of separate but equal in public education and harkened the beginning of the modern era of securing equal protection under the laws for all citizens without regard to race or color.

In the circumstances, it is appropriate to quote briefly from the Brown case:

To separate [Negro children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. . . . We conclude that in the field of public education the doctrine of separate but equal has no place. Seperate educational facilities are inherently unequal.

The Commission on Civil Rights was created 3 years after the Brown decision was rendered. Its service to the Congress, the courts, the executive branch, and the Nation over the past 14 years has been exemplary.

I urge my colleagues to support H.R. 7271 to permit the Commission vigorously to continue its activities.

Finally, Mr. Speaker, I cannot let this occasion go by without paying tribute to Father Theodore Hesburgh, chairman of the Civil Rights Commission, and to place upon his brow, as it were, a wreath of distinction.

Father Hesburgh has given selfless, dedicated, and devoted attention to his duties, as have all of the members of the Commission. The Commission's reports have been of inestimable value to the Congress, to the Nation, and in particular to the House Committee on the Judiciary.

Mr. HALL. Mr. Speaker, will the distinguished gentleman from New York yield?

Mr. CELLER. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's detailed explanation of this consideration under the suspension of rules. But I would like to ask whether or not this increase recommended by his committee is not on an annual basis of $600,000 per year instead of just for the next fiscal year.

Mr. CELLER. The bill reads on page 1, line 6:

For the purposes of carrying out this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, the sum of $4,000,000, and for each fiscal year thereafter until January 31, 1973, the sum of $4,000,000.

Mr. HALL. Does the distinguished gentleman consider this a limitation, Mr. Speaker?

Mr. CELLER. I think it is.

Mr. HALL. I think it is important that it be included in the RECORD, because others reading the bill itself might consider that this is permanent legislation which would allow up to $4 million per year as long as the Commission exists.

Mr. CELLER. I shall be glad to emphasize that when I extend my remarks.

Mr. HALL. I can hardly hear the gentleman. I wonder if the distinguished gentleman could repeat his answer to my last question.

Mr. CELLER. I just want to say the gentleman's statement is correct, and I shall be glad to emphasize that when I extend my remarks.

Mr. HALL. I appreciate that. Then one final question:

Would the distinguished chairman of the Committee on the Judiciary explain why in his wisdom, supported by his committee, they went above the Office of Management and Budget by $200,000 for the remainder of this year and through the end of fiscal 1973?

Mr. CELLER. As a matter of fact, the Office of Management and Budget approved the additional amount which you have referred to. They approved the entire $600,000 authorization.

Mr. HALL. I understood from the gentleman's report that the Civil Rights Commission and the Office of Management and Budget asked for an increase of $400,000, which would bring it from the present $3,400,000 to $3,800,000, but the committee went it $200,000 better and made it the round figure of $4 million. I would be glad to be corrected if I am in error. I know that the $200,000 is above the budget figure, but did the Office of Management and Budget approve it? I would be glad to have the gentleman state the correct situation.

Mr. CELLER. What the gentlemen has said is correct.

Mr. HALL. Mr. Speaker, we cannot have it both ways. Which is correct?

Mr. CELLER. The additional $200,000 in authorization was also approved by the Office of Management and Budget.

Mr. HALL. Even though that is over the amount projected in the budget authority?

Mr. CELLER. Yes.

Mr. HALL. I thank the gentleman.

The SPEAKER. the gentleman from Virginia (Mr. POFF) is recognized.

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

Mr. Speaker, as coauthor, I support H.R. 7271, a bill to authorize appropriations for the U.S. Commission on Civil Rights. The Commission is an independent, bipartisan agency first established by the Civil Rights Act of 1957. The life of the Commission has been authorized by Public Law 90–198 to extend until January 31, 1973. Public Law 90–198 established a ceiling of $2.65 million on the Commission's annual appropriations, but that ceiling was raised last year by Public Law 91–521 to $3.4 million in order to permit the Commission to meet Federal salary increases and other cost increases. This increase in the appropriations authorization, however, did not permit the Commission to expand its activities but rather only to maintain them at its 1968 operating level. H.R. 7271 would permit the Commission to expand its activities by raising the statutory ceiling to $4 million.

The Commission has appraisal, investigatory, advisory, and clearinghouse functions in the areas of civil rights.

The first function is appraisal. As an independent Federal agency, the Commission monitors the efforts of Federal, State, and local officials and agencies to determine whether there is unlawful discrimination on the basis of race, color, or national origin and, if so, appraises the efforts to overcome such discrimination. Studies are made and reports are issued with recommendations to the President and the Congress. This continuing appraisal function is perhaps the Commission's most important.

The second function is investigatory. The Commission has a statutory duty to investigate complaints of denials of equal protection of the laws on account of race, color, or national origin. In this regard, the Commission holds hearings in various parts of the country. Reports are made containing findings and recommendations for executive or legislative action.

The third function is advisory. State advisory committees hold conferences, issue reports, and disseminate information about civil rights problems. Such committees maintain programs to implement Commission recommendations and provide solutions for civil rights problems.

The fourth function is clearinghouse. Since 1964 the Commission has been authorized to receive and distribute civil rights information. It implements this statutory duty with films, publications, and meetings. It acts as a clearinghouse of information both for those who govern and for those who are governed. Some of these publications contain essays or commentaries on current issues. These publications are not statements of Commission policy but rather express the views of various writers, sociologists, or city planners.

This legislation has the support of the Department of Justice and the Office of Management and Budget. The Commission is currently requesting an appropriation of $3.8 million for fiscal year 1972. H.R. 7271 authorizes an additional $200,000 to enable the Commission to request a supplemental appropriation in the event of another general pay increase. The present request for appropriations is $400,000 in excess of the current authorization. The increase is needed so that the Commission may intensify efforts to obtain equal protection of the laws for the American Indians in the West and for the Spanish-speaking Puerto Rican population in the East.

I believe that this new thrust is fully justified. It will be a significant step toward the constitutional goal of equal protection of the laws for all Americans.

Mr. GROSS. Mr. Speaker, will the gentleman yield me 3 minutes?

Mr. POFF. I am glad to yield 3 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I thank the gentleman.

I rise to ask some member of the committee a question or two concerning this legislation.

Are we now being asked to authorize for appropriation on the basis that there may be a pay increase at some time in the distant future Is this what we are undertaking to do here today?

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

Mr. GROSS. I yield to the gentleman from Virginia.

Mr. POFF. The gentleman knows it is not unusual for the legislative committees to authorize a larger sum than is appropriated in the current budget. Today the Commission is requesting of the Appropriations Committee not $4 million but $3.8 million. I repeat, if a pay increase should materialize or if any other expenses which may not now be anticipated should be incurred, it would be wise, we believe, to have this $200,000 cushion to save the needless task of returning to the Congress for additional authorization.

Mr. GROSS. Of course, I just do not agree with that kind of philosophy. We could do the same thing for every agency and department of government today.

So far as I know, there is nothing to prevent the Commission from spending the money authorized and appropriated, whether it is for a salary increase or not, because it says, "and for other purposes." I do not know what the "other purposes" are.

I do know this: In 1967 this outfit had $2,650,000 a year. This would put them up to $4 million a year.

Does the gentleman see an end to this Commission? Does the gentleman see an end to proliferation of authorizations and appropriations for this business of allegedly taking care of civil rights? Is there no end to this?

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

Mr. GROSS. I am glad to yield to the gentleman from Virginia.

Mr. POFF. Very likely the problem which the Commission addresses will be with us much longer than any of us would like. We must, I believe, be equipped to deal with it in an informed and efficient way.

If the gentleman will yield further, I know he would want me to correct one mathematical error in his earlier comments. The authorization figure was $3.4 million as fixed by the 91st Congress.

Mr. GROSS. Of course, I was talking about 1967 when the Commission got $2.5 million.

Mr. POFF. The gentleman is approximately correct. It was $2,650,000, I believe.

Mr. GROSS. I am led to believe that there is a civil rights division in just about every agency and department of this Government of any magnitude. I, for one, am getting awfully tired of spending money on commissions to study and review what I believe the Justice Department ought to be doing. It all ought to be consolidated now in the Justice Department. This Commission has been going on long enough.

Mr. McCLORY. Mr. Speaker, the amount authorized for the U.S. Commission on Civil Rights—followed later by an appropriation of funds—should enable the Commission to perform constructive service in fulfilling its responsibilities during the coming fiscal year.

In gaging the work of the U.S. Commission on Civil Rights it seems well to recall the dual obligation which we all have to determine not only what is wrong with America but also to point out what is right with America.

In my view too little emphasis has been placed on the progress in jobs, housing, education, public accommodations, and other rights which the Congress has sought to promote by legislation—without discrimination on account of race or color. Much more is required to be done in behalf of black Americans as well as Spanish-speaking Americans, American Indians, and others.

Most of the progress which has been and will be made is the result of individual and group action, including changed attitudes on the part of public officials and corporate executives as well as individual citizens. The temptation to constantly point the finger at "government" as well as "economic imperialists"—which is the pattern of those who would destroy our system—should, from time to time, be tempered by references noting the benefits which have occurred in recent years—operating within the system.

In my view some of the so-called clearinghouse publications of the U.S. Commission on Civil Rights have shown a lack of balance in neglecting the progress—however slow in some areas—which has been brought about through the combination of legislative action as implemented by individual and group efforts.

It seems important at this point to call attention to the great progress which has occurred in securing voting rights for black Americans and Spanish-speaking Americans. For example, since the 1960 census, the proportion of young black adults with at least a high school diploma jumped 20 percentage points to 58 percent. Nearly 800,000 blacks moved from central cities to suburban areas during the decade, and the income gap between black and white families is closing. Mr. Speaker, I submit that there has been progress, and I am heartened by these statistics. I am also heartened by the fact that these advances have alerted the black community to its responsibilities and tremendous opportunities which exist under our great system for public service and for orderly progress.

Mr. Speaker, it appears to me that progress in public accommodations is virtually taken for granted less than 10 years after the Congress took a decisive step to correct many abuses of the past. Job opportunities for black Americans have expanded tremendously. In many cases, the preparation for jobs has lagged behind the job opportunities themselves, with the result that many opportunities in the professions, in supervisory capacities, and in other specialized fields are open to black Americans without personnel to fill the posts.

Mr. Speaker, I am not satisfied with the direction in which the U.S. Commission on Civil Rights is moving—with respect to its clearinghouse function—and I would hope that it could avail itself of the opportunity to dramatize the progress which is taking place. This, it seems to me, would be the greatest inducement to more rapid elimination of the discrimination which is holding our Nation down and continuing to pit race against race at a time when we should be uniting our efforts for greater progress in all of the areas in which the U.S. Commission on Civil Rights has responsibility.

GENERAL LEAVE TO EXTEND

Mr. POFF. Mr. Speaker, I ask unanimous consent that all Members who care to do so may have 5 legislative days in which to extend their remarks on this legislation.

The SPEAKER pro tempore (Mr.

Boggs). Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. CELLER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from New York that the House suspend the rules and pass the bill H.R. 7271.

The question was taken.

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

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

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

The question was taken; and there were—yeas 262, nays 67, not voting 103, as follows:

[Roll No. 91]

YEAS—262

Abourezk	Fascell	Madden
Abzug	Findley	Mahon
Adams	Ford, Gerald R.	Martin
Addabbo	Ford, William D.	Matsunaga
Alexander	Forsythe	Mayne
Annunzio	Fraser	Mazzoli
Arends	Frenzel	Meeds
Ashley	Frey	Melcher
Aspinall	Fulton, Pa.	Metcalfe
Begich	Gallagher	Michel
Belcher	Garmatz	Mikva
Bell	Giaimo	Miller, Calif.
Bergland	Gibbons	Miller, Ohio
Betts	Gonzalez	Mills
Biester	Goodling	Minish
Bingham	Gray	Mink
Blatnik	Griffiths	Minshall
Boggs	Grover	Mollohan
Boland	Gubser	Monagan
Bolling	Gude	Morse
Brademas	Halpern	Mosher
Brasco	Hamilton	Moss
Bray	Hanley	Murphy, N.Y.
Brotzman	Harrington	Myers
Brown, Mich.	Harsha	Natcher
Brown, Ohio	Harvey	Nedzi
Buchanan	Hathaway	Nelsen
Burke, Mass.	Hawkins	Obey
Burlison, Mo.	Hays	O'Konski
Burton	Hechler, W. Va.	O'Neill
Byrnes, Wis.	Helstoski	Patten
Byron	Hicks, Mass.	Pelly
Carney	Hicks, Wash.	Pepper
Carter	Hogan	Perkins
Casey, Tex.	Holifield	Pettis
Cederberg	Horton	Peyser
Celler	Hosmer	Pickle
Chamberlain	Howard	Pike
Chisholm	Hungate	Pirnie
Clancy	Hunt	Poff
Clausen, Don H.	Hutchinson	Powell
Clawson, Del	Ichord	Preyer, N.C.
Cleveland	Jacobs	Pucinski
Collier	Jarman	Purcell
Conable	Johnson, Calif.	Quie
Conte	Johnson, Pa.	Quillen
Conyers	Jones, Tenn.	Rangel
Culver	Karth	Rees
Daniels, N.J.	Kastenmeier	Reid, Ill.
Danielson	Kazen	Reid, N.Y.
Davis, Wis.	Keating	Reuss
de la Garza	Kee	Rhodes
Dellenback	Keith	Riegle
Denholm	King	Robinson, Va.
Dennis	Koch	Rodino
Derwinski	Kyl	Roe
Devine	Kyros	Rogers
Diggs	Latta	Roncalio
Dingell	Leggett	Rooney, N.Y.
Donohue	Lent	Rosenthal
Downing	Link	Rostenkowski
Drinan	Lloyd	Roush
Dulski	Long, Md.	Roybal
Duncan	McClory	Ryan
du Pont	McClure	St Germain
Dwyer	McCollister	Sarbanes
Eckhardt	McCormack	Saylor
Edmondson	McDade	Schwengel
Edwards, Calif.	McDonald, Mich.	Sebelius
Esch	McFall	Seiberling
Eshleman	McKay	Shipley
Evans, Colo.	McKinney	Shriver
Evins, Tenn.	Madden	Sisk
Fascell	Mahon	Skubitz
Findley	Martin	Slack
Ford, Gerald R.	Matsunaga	Smith, Calif.
Ford, William D.	Mayne	Smith, Iowa
Forsythe	Mazzoli	Smith, N.Y.
Fraser	Meeds	Springer
Frenzel	Melcher	Stafford
Frey	Metcalfe	Staggers
Fulton, Pa.	Michel	Stanton, J. William
Gallagher	Mikva	Steed
Garmatz	Miller, Calif.	Steiger, Ariz.
Giaimo	Miller, Ohio	Steiger, Wis.
Gibbons	Mills	Stokes
Gonzalez	Minish	Stubblefield
Goodling	Mink	Talcott
Gray	Minshall	Teague, Calif.
Griffiths	Mollohan	Terry
Grover	Monagan	Thompson, N.J.
Gubser	Morse	Thomson, Wis.
Gude	Mosher	Thone
Halpern	Moss	Tiernan
Hamilton	Murphy, N.Y.	Ullman
Hanley	Myers	Van Deerlin
Harrington	Natcher	Vanik
Harsha	Nedzi	Veysey
Harvey	Nelsen	Vigorito
Hathaway	Obey	Waldie
Hawkins	O'Konski	Wampler
Hays	O'Neill	Ware
Hechler, W. Va.	Patten	Watts
Helstoski	Pelly	Whalen
Hicks, Mass.	Pepper	White
Hicks, Wash.	Perkins	Whitehurst
Hogan	Pettis	Williams
Holifield	Peyser	Wilson, Bob
Horton	Pickle	Wilson, Charles H.
Hosmer	Pike	Wright
Howard	Pirnie	Wylie
Hungate	Poff	Wyman
Hunt	Powell	Yates
Hutchinson	Preyer, N.C.	Young, Tex.
Ichord	Pucinski	Zablocki
Jacobs	Purcell	Zion
Jarman	Quie	Zwach
Johnson, Calif.	Quillen	
Johnson, Pa.	Rangel	
Jones, Tenn.	Rees	
Karth	Reid, Ill.	
Kastenmeier	Reid, N.Y.	
Kazen	Reuss	
Keating	Rhodes	
Kee	Riegle	
Keith	Robinson, Va.	
King	Rodino	
Koch	Roe	
Kyl	Rogers	
Kyros	Roncalio	
Latta	Rooney, N.Y.	
Leggett	Rosenthal	
Lent	Rostenkowski	
Link	Roush	
Lloyd	Roybal	
Long, Md.	Ryan	
McClory	St Germain	
McClure	Sarbanes	
McCollister	Saylor	
McCormack	Schwengel	
McDade	Sebelius	
McDonald, Mich.	Seiberling	
McFall	Shipley	
McKay	Shriver	
McKinney	Sisk	
Madden	Skubitz	
Mahon	Slack	
Martin	Smith, Calif.	
Matsunaga	Smith, Iowa	
Mayne	Smith, N.Y.	
Mazzoli	Springer	
Meeds	Stafford	
Melcher	Staggers	
Metcalfe	Stanton, J. William	
Michel	Steed	
Mikva	Steiger, Ariz.	
Miller, Calif.	Steiger, Wis.	
Miller, Ohio	Stokes	
Mills	Stubblefield	
Minish	Talcott	
Mink	Teague, Calif.	
Minshall	Terry	
Mollohan	Thompson, N.J.	
Monagan	Thomson, Wis.	
Morse	Thone	
Mosher	Tiernan	
Moss	Ullman	
Murphy, N.Y.	Van Deerlin	
Myers	Vanik	
Natcher	Veysey	
Nedzi	Vigorito	
Nelsen	Waldie	
Obey	Wampler	
O'Konski	Ware	
O'Neill	Watts	
Patten	Whalen	
Pelly	White	
Pepper	Whitehurst	
Perkins	Williams	
Pettis	Wilson, Bob	
Peyser	Wilson, Charles H.	
Pickle	Wright	
Pike	Wylie	
Pirnie	Wyman	
Poff	Yates	
Powell	Young, Tex.	
Preyer, N.C.	Zablocki	
Pucinski	Zion	
Purcell	Zwach	
Quie		
Quillen		
Rangel		
Rees		
Reid, Ill.		
Reid, N.Y.		
Reuss		
Rhodes		
Riegle		
Robinson, Va.		
Rodino		
Roe		
Rogers		
Roncalio		
Rooney, N.Y.		
Rosenthal		
Rostenkowski		
Roush		
Roybal		
Ryan		
St Germain		
Sarbanes		
Saylor		
Schwengel		
Sebelius		
Seiberling		
Shipley		
Shriver		
Sisk		
Skubitz		

NAYS—67

Abbitt	Fisher	Mathis, Ga.
Abernethy	Flowers	Mizell
Andrews, Ala.	Flynt	Montgomery
Archer	Fountain	Nichols
Baker	Fuqua	Passman
Baring	Griffin	Poage
Bennett	Gross	Price, Tex.
Bevill	Hagan	Roberts
Bow	Haley	Ruth
Brinkley	Hall	Satterfield
Broyhill, N.C.	Hammer-schmidt	Scherle
Broyhill, Va.	Hébert	Schmitz
Burke, Fla.	Henderson	Scott
Burleson, Tex.	Hull	Shoup
Caffery	Jones, Ala.	Sikes
Camp	Jones, N.C.	Snyder
Chappell	Kuykendall	Spence
Collins, Tex.	Landgrebe	Taylor
Daniel, Va.	Landrum	Teague, Tex.
Davis, Ga.	Lennon	Thompson, Ga.
Davis, S.C.	McMillan	Waggonner
Dorn	Mann	Whitten
Edwards, Ala.		

NOT VOTING—103

Anderson, Calif.	Fish	O'Hara
Anderson, Ill.	Flood	Patman
Anderson, Tenn.	Foley	Podell
Andrews, N. Dak.	Frelinghuysen	Price, Ill.
Ashbrook	Fulton, Tenn.	Pryor, Ark.
Aspin	Galifianakis	Railsback
Badillo	Gaydos	Randall
Barrett	Gettys	Rarick
Biaggi	Goldwater	Robison, N.Y.
Blackburn	Grasso	Rooney, Pa.
Blanton	Green, Oreg.	Rousselot
Brooks	Green, Pa.	Roy
Broomfield	Hanna	Runnels
Byrne, Pa.	Hansen, Idaho	Ruppe
Cabell	Hansen, Wash.	Sandman
Carey, N.Y.	Hastings	Scheuer
Clark	Heckler, Mass.	Schneebeli
Clay	Hillis	Stanton, James V.
Collins, Ill.	Jonas	Steele
Colmer	Kemp	Stephens
Corman	Kluczynski	Stratton
Cotter	Long, La.	Stuckey
Coughlin	Lujan	Sullivan
Crane	McCloskey	Symington
Delaney	McCulloch	Udall
Dellums	McEwen	Vander Jagt
Dent	McKevitt	Whalley
Dickinson	Macdonald, Mass.	Widnall
Dow	Mailliard	Wiggins
Dowdy	Mathias, Calif.	Winn
Edwards, La.	Mitchell	Wolff
Eilberg	Moorhead	Wyatt
Erlenborn	Morgan	Wydler
	Murphy, Ill.	Yatron
	Nix	Young, Fla.

So (two-thirds having voted in favor thereof) the rule were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Edwards of Louisiana with Mr. Dickinson.

Mr. Dent with Mr. Sandman.

Mrs. Sullivan with Mr. Jonas.

Mr. Kluczynski with Mr. Anderson of Illinois.

Mr. Biaggi with Mr. Robison of New York.

Mr. Barrett with Mr. Frelinghuysen.

Mr. Byrne of Pennsylvania with Mr. Lujan.

Mr. Delaney with Mr. Wydler.

Mr. Eilberg with Mr. Hillis.

Mrs. Grasso with Mr. Goldwater.

Mr. Green of Pennsylvania with Mr. Whalley.

Mr. Podell with Mr. Nix.

Mr. Rooney of Pennsylvania with Mr. Clay.

Mr. Runnels with Mr. Wiggins.

Mr. O'Hara with Mr. Broomfield.

Mr. Morgan with Mr. Widnall.

Mr. Macdonald of Massachusetts with Mr. McEwen.

Mr. Wolff with Mr. Railsback.

Mr. Stratton with Mrs. Heckler of Massachusetts.

Mr. Brooks with Mr. Erlenborn.

Mr. Carey of New York with Mr. Hastings.

Mr. Cabell with Mr. Blackburn.

Mr. Flood with Mr. Schneebeli.

Mr. Fulton of Tennessee with Mr. Andrews of North Dakota.

Mr. Pryor of Arkansas with Mr. Young of Florida.

Mr. Roy with Mr. Fish.

Mr. Long of Louisiana with Mr. Crane.

Mr. Yatron with Mr. Steele.

Mr. Blanton with Mr. Mailliard.

Mr. Anderson of Tennessee with Mr. Vander Jagt.

Mr. Hanna with Mr. Wyatt.

Mr. Moorhead with Mr. Kemp.

Mrs. Green of Oregon with Mr. Hansen of Idaho.

Mr. Gettys with Mr. Mathias of California.

Mr. Galifianakis with Mr. Scheuer.

Mr. Clark with Mr. Coughlin.

Mrs. Hansen of Washington with Mr. McKevitt.

Mr. Anderson of California with Mr. McCloskey.

Mr. Stephens with Mr. Rousselot.

Mr. Udall with Mr. Ruppe.

Mr. Symington with Mr. Winn.

Mr. Stuckey with Mr. Ashbrook.

Mr. Colmer with Mr. Murphy of Illinois.

Mr. Dow with Mr. Mitchell.

Mr. Gaydos with Mr. Dellums.

Mr. Patman with Mr. Rarick.

Mr. Price of Illinois with Mr. Aspin.

Mr. Badillo with Mr. Collins of Illinois.

Mr. Corman with Mr. Randall.

Mr. Foley with Mr. Cotter.

Mr. Dowdy with Mr. James V. Stanton.

Mr. BROYHILL of North Carolina changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING NATIONAL SCHOOL LUNCH ACT

Mr. PUCINSKI. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 5257) to amend the National School Lunch Act, as amended, to provide funds and authorities to the Department of Agriculture for the purpose of providing free or reduced-price meals to needy children, as amended.

The Clerk read as follows:

H.R. 5257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress essembled, That the National School Lunch Act (42 U.S.C. 1752) is amended by adding at the end of the Act the following new section:

"SEC. 15. (a) In addition to funds appropriated or otherwise available, the Secretary is authorized to use, during the fiscal year ending June 30, 1971, not to exceed $50,000,000, and during the fiscal year ending June 30, 1972, not to exceed $100,000,000 in funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out the provisions of this Act relating to the service of free and reduced-price meals to needy children in schools and service institutions.

"(b) The Secretary is authorized to utilize the funds made available under this section for the purpose of making grants to State

educational agencies demonstrating a need for additional funds and for the purpose of making reimbursements to schoo's and service institutions under agreement with the Department of Agriculture for the operation of child food service programs.

"(c) Any funds unexpended under this section at the end of the fiscal year ending June 30, 1971, or at the end of the fiscal year ending June 30, 1972, shall remain available to the Secretary in accordance with the last sentence of section 3 of this Act, as amended."

The Speaker pro tempore. Is a second demanded?

The SPEAKER pro tempore. Is a second demanded?

Mr. QUIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PUCINSKI. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I rise to support the motion to suspend the rules and pass H.R. 5257. I believe that the passage of H.R. 5257 is absolutely essential if we are to fulfill the commitment which both Congress and the President made last year that no hungry schoolchild would remain unfed.

Congress made this commitment last year by unanimous passage of Public Law 91-248 which was sponsored in the House by the Chairman of the Education Committee, Mr. Perkins, and which requires that every needy schoolchild be provided a free or reduced price meal. School districts are required by that law to provide these meals or they are barred from participating in the national school lunch program.

After the President signed that bill into public law, he requested a supplemental appropriation to pay schools for the additional costs of providing these meals, and Congress appropriated that amount—$209 million.

Consequently, school districts across the country vastly expanded their lunch programs in fulfillment of the congressional requirement to do so and in reliance upon the actions of the President and of Congress in providing the additional funds for this expansion.

But now we are discovering that the amount of this supplemental appropriation will not be sufficient to pay fully for these additional costs and that therefore hundreds of school districts are faced with the choice of discontinuing their lunch programs or going into debt.

Before the committee began hearings on H.R. 5257, 12 States and cities contacted the committee to report that they were $22 million short of funds for the program this year. At our hearings the Department of Agriculture admitted that at least 17 States and jurisdictions were short $27 million this year.

The reason for these shortages lies in the Department's estimate last year of the number of eligible needy children. The Department of Agriculture of Agriculture estimated then that there would be 6.6 million needy children who would be eligible for free and reduced price meals, but last month in testimony before the committee the Department admitted that this estimate was a gross underestimate. The Assistant Secretary testified that there are at least 1.2 million more eligible needy children in schools participating in the lunch program than had been budgeted for and that if the program were to be expanded to reach all needy children as envisioned by Congress then there would be a further addition of 1.5 million needy children.

Therefore, using the Department's own figures we can understand why there is a shortage of funds in many States. The purpose of H.R. 5257 is quite simply to give the Secretary of Agriculture standby authority to deal with these shortages.

H.R. 5257 would allow the Secretary to transfer up to $50 million at his decretion from section 32 of the Agricultural Act of 1935 to reimburse States for their additional expenses in providing free and reduced price meals for needy children during the present fiscal year. Based on information supplied by the States and by the Department, the committee anticipates that $50 million would be the maximum amount needed.

The second thing which H.R. 5257 does is to allow the Secretary to transfer up to $100 million from section 32 during fiscal 1972 for the same purpose. The reason for this provision is two-fold: first, local school districts should have the assurance now when they are writing their budgets for next year that Congress will continue to provide sufficient funds for free and reduced price meal programs, and second, the local districts do not have that assurance from the President's budget. The budget for fiscal 1972 for the free and reduced price meal program requests the same amount as was appropriated this year—$356 million—even though the Department has admitted that that amount is not sufficient for this present fiscal year—much less for the next year.

Mr. Speaker, if we are to fulfill our commitments of last year to feed hungry children, I believe that passage of H.R. 5257 is absolutely essential.

Therefore, Mr. Speaker, I believe that we should pass H.R. 5257 in order to assure that local school districts will not be caught short in the next school year as many of them are caught short now. In dealing with hungry children we are asking the school districts to crank up a program for feeding these children.

Mr. Speaker, this Congress is committed to the proposition that no hungry child in this country will go unfed.

What we are proposing to do here is to give the Secretary of Agriculture the additional money. If he does not need it, fine, but if he does need it, it is there, and it gives local school districts the opportunity to crank up and tool up for these programs.

Therefore, Mr. Speaker, I would strongly recommend to the House that the rules be suspended and that the bill H.R. 5257, as amended, be passed.

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

Mr. PUCINSKI. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's explanation. However, I am a little bit at a loss to know exactly how much funding there is in here for the 6 weeks remaining in this fiscal year.

The gentleman from Illinois frequently referred to the "remainder of this year," or to "the present fiscal year."

Does the gentleman actually mean that there are x number of dollars in here which will be used prior to June 30, 1971?

Mr. PUCINSKI. Yes. There is money in this bill which would permit the use of up to $50 million additional funding for the remainder of this year and carryover into next year, so that those school districts that want to come into the program and make an investment in equipment and programs designed to feed needy children, and those school districts which have already done this but are now short could get help from this bill. We have some telegrams on the desk over there showing the shortages. Twelve States have told us that they are short some $22 million for the remainder of this year.

Recent actions of the Department would indicate the lunch program is short $10 million, but that figure is not firm. We are providing in this bill $50 million for the remainder of this year and carryover into next year.

Mr. HALL. I thank the gentleman and I well appreciate the fact that it has become the custom to provide a "cushion" on all of these authorizing bills but I decry the custom.

As I understand it, the carryover involves an additional $100 million for fiscal year 1972 out of section 32 of the Agricultural Act of August 24, 1935, is that correct?

Mr. PUCINSKI. There will be $50 million that will be available for fiscal 1971, and another $100 million in 1972. The gentleman is correct.

Mr. HALL. Mr. Speaker, may I ask the distinguished gentleman from Illinois two additional questions?

Mr. PUCINSKI. I yield to the gentleman from Missouri for that purpose.

Mr. HALL. Mr. Speaker, my first question:

Is this legislation still configured to involve the needy children only?

Mr. PUCINSKI. That is correct.

Mr. HALL. The gentleman often refers to hungry children. I know the difference between hunger and malnutrition, and perhaps a better choice of semantics is just the word "needy." Is that still applicable to the school lunch program?

Mr. PUCINSKI. This applies only to needy children, as defined under the act.

Mr. HALL. Then finally, Mr. Speaker, may I ask if in addition to these funds it does continue to direct that the food substances be furnished out of commodity surplus, that is, from the purchase of the Department of Agriculture, and the Commodity Conservation Credit Act?

Mr. PUCINSKI. That is correct. The basic act is not changed. All we are dealing with here is to provide additional money.

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

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

Mr. Speaker, I rise in support of this

legislation. As was mentioned earlier, it follows the action that was taken twice previously.

I do not know the exact amount the fund will be short to take care of the free or reduced-price luncheons this year, but we feel that the $50 million set aside this year under this bill will be sufficient to take care of it. It is also important that the money be made available for the school lunches at an early date, rather than waiting for the end of the fiscal year to see if there is enough money. That kind of latitude is necessary if this program is to operate well.

Many of the Members have undoubtedly heard from superintendents of their school districts, and some of them may have criticized the program because they did not think that some of the individuals were poor enough for their children to be entitled to free or reduced cost lunches. It is hard for a school superintendent to know the income level of all of the parents, and therefore it has surprised many of them that many more children were eligible for this program.

I think it is also important to see to it that the additional funds that are required are supplied so that there will not be any additional burden on the local communities.

Also I might say to those who have a particular interest in food commodities, and particularly perishable commodities, that we continue to supply that, and that the other funds will not be dipped into. As most of the Members know, this concerns mostly citrus growers, and there is a carryover in case they run into difficulty with oversupply, but with the kind of weather conditions we have had this year there is not much danger of that occurring.

There is an estimated $350 million that will be utilized, and we will authorize only $50 million this year, and again there will be $300 million in the fund to carry over into the next year, and we would authorize use of that by $100 million.

Also the way the bill is written, if the full $50 million that is authorized here was not used in this fiscal year it would carry over to the next year, and the same thing would be true of the next year, it would carry over to 1973.

Mr. Speaker, I hope all of our colleagues will support this legislation, which will be extremely beneficial not only to the schoolchildren of this country, but to those who produce the agricultural products which will be utilized.

Mr. PUCINSKI. Mr. Speaker, I yield such time as he may desire to the chairman of the full Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I support H.R. 5257, a bill to provide funds and authority to the Department of Agriculture for the purpose of providing free or reduced price lunches to needy children. This bill has been reported favorably by the House Committee on Education and Labor.

I received, just this past Friday, a letter from Assistant Secretary Lyng in which he states that sufficient funds are available to meet all reasonably justified requests for additional funds. The Assistant Secretary further stated that a special docket authorizing the temporary use of an additional $10 million in section 32 funds for these programs has been approved. I am very happy to see that the Department has moved in this direction to help assure the States that enough money is available. I hardly need mention that this action is exactly the same as contemplated in this bill.

Yet, I still must raise the question as to whether this amount of $10 million is sufficient. I continue to receive messages and telegrams from individual States that their requests for additional funds have not been met. Because this degree of uncertainty over funding still exists, I must continue to press for passage of this bill to make sure that States and local school districts are adequately reimbursed for the costs that they have incurred in greatly increasing the service of lunches and breakfasts to needy children.

H.R. 5257 would amend the National School Lunch Act to give the Secretary of Agriculture authority to use not to exceed $50 million from section 32 funds for the remainder of this fiscal year, and not to exceed $100 million during the fiscal year 1972, for the purpose of providing free or reduced price lunches to needy children. Such funds would be in addition to funds appropriated or otherwise available for this purpose. The bill provides standby authority for the Secretary of Agriculture to use these funds when a need for additional funds is demonstrated by State educational agencies or by schools or service institutions under an agreement with the Department of Agriculture for the operation of food service programs.

It is further provided that any funds remaining unexpended or not obligated at the end of the fiscal years 1971 and 1972 shall remain available to the Secretary for use in financing child nutrition programs in the following years.

Passage of this bill is required to fulfill the commitment made last year when Public Law 91–248 was approved. This legislation originated in the House Education and Labor Committee and has been hailed as a landmark in legislation for child nutrition. One of its major provisions required that, beginning January 1, 1971, all children from families with incomes below the poverty level shall be provided a free or reduced price lunch. Eligibility of such children is determined on a simple self-declaration basis by parents. The law further directs that the States develop a specific plan to make lunches available in all schools.

The results have been dramatic. By February 1971, some 6.7 million needy children were receiving free or reduced-price lunches, an increase of 2.5 million above the total in February 1970. In March the total increased to 7.1 million needy children.

This sharp increase in participation and costs of providing free or reduced price lunches to needy children raised questions and concern in many States as to the adequacy of available funds to continue their programs for the current fiscal year. This, in turn, led to the introduction of H.R. 5257 on March 1 of this year.

In April hearings were held for 2 days by the Subcommittee on General Education to ascertain the extent of need for additional funds. At that time, Assistant Secretary Richard Lyng stated that the administration did not need additional funds for the current fiscal year since some States had been allocated funds excess to their needs, which could be recaptured and reallocated to States needing additional funds.

However two State school lunch directors and the spokesman for the American School Food Service Association testified that they could not depend on USDA assurances that additional funds would be forthcoming. They told the House Subcommittee on General Education that while they had been told by USDA spokesmen the day before that sufficient funds would be made available, there was no assurance given as to when. One of the two stated:

> It was two years ago that we held our June payments pending a reallocation of funds. Those June payments usually paid no later than August 15, were not paid until after October 15. Our schools cannot wait for an October or November reallocation.

In addition, other testimony before the subcommittee and numerous telegrams and letters from States stressed the need for prompt action to assure States and local school districts that adequate funds would be available to them to meet obligations already incurred in providing lunches to additional needy children. Many school districts are now being forced to borrow funds to meet current and previous expenses while the Department of Agriculture goes through the time-consuming process of assessing the availability of funds and making reallocation of funds. On April 21, I placed in the RECORD a full description of this situation including copies of letters received from the States on this matter.

The need for additional funds this year has arisen because the number of children who should, on the basis of family income, receive a free or reduced price lunch has been seriously underestimated.

The original estimate last summer of the number of needy children to be fed, as developed by the Department of Agriculture, was that 6.6 million children in all of the schools of the Nation would qualify for a free or reduced price meal under the new standards. As of February 1, 1971, the Department estimated, on the reports from the States, that the number of children eligible is 7.8 million in the schools now participating in the school lunch program. This is an increase of 1.2 million above the original estimate. Further, the estimate does not include needy children in some 23,000 schools, with an enrollment of 6.7 million children, which do not have a food service program.

In March of this year, the number of needy children receiving lunches had reached 7.1 million, well above the goal of 6.6 million children. The Department of Agriculture has testified that the goal of 6.6 million needy children was underestimated by at least 1.5 million and the number will be even greater next year.

A study conducted last summer by the House Education and Labor Committee among 50 State school lunch directors showed that a total of 8.9 million should be receiving free or reduced price lunches.

I should like now to discuss the second part of this bill which provides for authority to use not to exceed $100,000,000 from section 32 funds for school lunch purposes beginning July 1, 1971. It is our purpose here to give the child nutrition programs a sound financial basis for starting operations July 1, 1971 and to demonstrate to school officials that Congress intends to provide adequately for these programs in the coming fiscal year. Due to the vastly increased complexity and scope of our Government, the appropriations process is a lengthy one and there is little prospect that appropriations levels will be determined until this fall, well after school has started. As a result, school officials in this case will be forced to plan and initiate their food program long before they know how much Federal funds will be available. We tried to avoid this situation by authorizing advance funding in Public Law 91–248. However the administration has not acted to implement this new authority.

Mr. Speaker, in consideration of this second part of H.R. 5257, I wish to call special attention to the fact that the administration's budget for 1972 calls for no increase whatsoever for the child nutrition programs. It is a standpat, no increase budget which bears no resemblance to reality. This budget requests funds to finance lunches for only 6.6 million needy children next year, whereas a total of 7.2 million needy children were being reached in March of this year. Clearly, the administration's budget will have to be increased or needy chldren will go hungry next year.

Before I conclude these remarks, I should like to say a few words on the availability of section 32 funds for use in providing good nutritious lunches for the children of low-income families.

I submit here for the record a table from the Department of Agriculture showing the status of section 32 funds for the fiscal year 1971:

UNITED STATES DEPARTMENT OF AGRICULTURE—REMOVAL OF SURPLUS AGRICULTURAL COMMODITIES, FISCAL YEARS 1969, 1970, AND 1971

[Obligations in thousands of dollars]

	1969	1970	1971 (estimated)
(a) Carryover funds available at beginning of year	300,000	299,921	300,000
(a) (1) Recovery of prior year obligations		130	
(b) Additional amount available based on 30 percent of customs revenue	596,646	698,463	728,760
(c) Total amount available	896,646	998,514	1,028,760
(d) Amounts transferred or utilized:			
Child nutrition programs:			
Cash grants to States:			
School lunch program (sec. 4)		129,941	174,033
Free and reduced price lunches, (sec. II)	32,039	87,953	151,653
School breakfasts	2,057	1,162	3,000
Nonfood (equipment assistance)	9,513	6,715	
State administrative expenses	391	1,257	2,000
Special milk program	102,048	20,000	
Commodities to States [1]	185,101	204,744	164,592
Total, child nutrition	331,149	451,772	495,278
Family feeding program:			
Commodities distributed to families	190,282	173,180	155,163
Financial assistance to States for program operation	4,154	6,026	19,700
Nutrition supplement to mothers and infants	8,067	13,667	16,136
Total, family feeding	202,503	192,873	190,999
Food distribution to institutions (commodities)	11,747	9,577	1,466
Food and nutrition aides	9,948	33	
Export payments	4,810	5,336	4,966
Operating expenses	6,871	7,186	7,224
Marketing agreements and orders	2,277	2,576	3,084
Transfers to:			
Foreign Agricultural Service	3,117	3,117	3,117
Agricultural Research Service	15,000	15,000	15,000
Department of Commerce (to promote and develop fishery products)	7,413	7,636	7,626
(e) Additional amounts to become available in fiscal year 1972 based on 30 percent of customs revenue ($766,000,000)			

[1] Includes sec. 32 transfer to sec. 6 of the National School Lunch Act.

This table shows that the section 32 fund will end up the year with a carryover or surplus of $300 million. Further, an additional sum of $766 million will come into the section 32 account on July 1, 1971.

I wish to emphasize at this point that legislative approval for the use of $100,000,000 in section 32 funds for next year will in no way affect the prerogatives of the Appropriations Committees and the Congress to determine the total amount of funds to be made available for the fiscal year 1972. All the legislation does is to assure that a specific sum of money will be available at the start of the year. This money will be over and above the amounts that will undoubtedly be made available under a continuing resolution beginning July 1, 1971.

Mr. Speaker, I believe that passage of H.R. 5257 is essential if the Congress and the President are to fulfill the commitment embodied in Public Law 91–248 that no school child would be denied a lunch because of poverty. We can do no less than that.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I would like to commend the gentleman for the tremendous amount of time he devotes to this program and for the excellent work that he and other members of his committee do. Unfortunately, it seems you never end all of the problems, and I would like to ask my distinguished colleague if the committee can do anything in a problem such as this. The school lunch program is doing a tremendous job but some of the poorer school districts—in my area for example—do not have the necessary funds to build a cafeteria or to build a room where you can utilize the school lunch program.

Has the committee done anything along this line, or can you do anything along this line?

Mr. PUCINSKI. As the gentleman knows, the basic School Lunch Act does permit the use of funds for equipment but not for major construction. This money would not be available for construction. But the gentleman raises an excellent point. I find that there is a distinct correlation between feeding youngsters and the progress they make in the whole learning process, and there is a tremendous reaction all over the country to improve feeding facilities in these schools with large concentrations of needy children. They can use funds for equipment under section 11, but we are now looking at this whole aspect of construction needs. We have had similar requests from many other parts of the country. The committee is looking into the whole problem.

Mr. DE LA GARZA. I appreciate the gentleman's answer. Then I have the assurance that the committee will continue to study this problem and see whether maybe some formula can come out of such study. I know there are other programs under which committees can get funds, but you eventually come to that one poor district that does not fit into any program, and here you have such a beautiful program for school lunches and have no room into which you can take the children to feed them. I hope the committee will look at this matter. And again I commend the gentleman for the time he has devoted to this very worthwhile program.

Mr. QUIE. Mr. Speaker, I yield 3 minutes to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I rise in support of this amendment, and as one who has worked on the committee and helped develop this amendment I would like to point out the fact that in my own State of New York, the figure that we are short, between now and the end of the school year—and this was as of this morning when I received these figures—is $9.3 million. This program is an absolute necessity, and I believe most members of the committee agree in supporting this measure. The passage of the

bill will guarantee that between now and the end of the year the school lunch program will be continued without any break, and in the school year coming up, 1971–72, and additional $100 million will be absolutely necessary.

New York State is going to be approximately $38 million short in this department in the year 1972. I strongly urge that we join with the entire committee and the chairman in a quick and immediate passage of this legislation.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in support of H.R. 5257, to provide additional funds and authority to the Department of Agriculture for providing free or reduced price meals to needy children.

We need not debate here whether or not Congress is responsible for seeing that no child suffers from malnutrition in this Nation. We acknowledged that responsibility last year when we required by law that all schools participating in the national school lunch program must provide free and reduced price meals for every needy child.

Unfortunately, as most of the schools in the Nation moved with speed to provide these meals, we learned that the number of children who would be eligible for them far exceeded the estimated 6.6 million on which we first based our estimate of the cost of the program. The Department of Agriculture now estimates at least 7.8 million children will be eligible, while our committee colleagues advise us their own survey indicated there were 8.9 million last year, with even more probably now eligible because most of the States they surveyed used a lower poverty standard than the Department of Agriculture has now fixed for eligibility.

Regardless of the number of eligible children, the States and local school districts are now under congressional mandate to feed them and we must move now to reimburse them for the added financial burden we have placed on them by doing so.

I am pleased that this bill not only provides that funds shall be made available for reimbursing the schools for what they have already spent or will spend during this school year for free and reduced price meals, but also moves ahead by authorizing the Secretary of Agriculture to use up to $100 million during the coming fiscal year. This authority will serve as assurance to the schools that Congress will provide them sufficient funds not only now but in the future, an assurance which is particularly important to them in planning their budgets for the coming year.

Mr. Speaker, I believe this is a good bill and urgently needed. I urge its enactment.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 5257, a bill to amend the National School Lunch Act, which would authorize the Secretary of Agriculture the sum of $50 million during fiscal year 1971 and up to $100 million during fiscal year 1972 from funds available under section 32 of the Agricultural Act of 1935 to provide free or reduced-price meals to needy children in Hawaii and other States.

There has been extensive documentation on the deleterious effects of hunger and malnutrition on our children. The most recent affirmation of the facts of hunger was the 10-State Nutrition Survey in the United States, 1968–70, conducted by the Department of Health, Education, and Welfare. The United States-Mexican medical team survey also concluded that severe malnutrition at an early age substantially impairs mental development.

Congress has recognized the plight of hungry school children and has authorized new programs and appropriated funds to insure that hot lunches will be provided to all those who need them. Funds for these child feeding programs have increased from $2 million in 1967 to $356 million this year.

Nonschool programs have been added and the programs in operation were upgraded by Public Law 91–248, last year's congressional act, which expanded the program to provide free and reduced price meals for every child in need.

Most States and local school districts have quickly acted to bring an increasing number of children into the program. In 1969, 2.8 million children were being served reduced price or free lunches. This year 7.2 million children are being served. We in Hawaii have the benefit of participating in the program with 14,573 children a day receiving free or reduced-price lunches. Many more need to be reached in the various States.

These are impressive gains but unfortunately, we are faced with the fact that the funds which have been appropriated are not sufficient to meet the needs of the hungry and impoverished. Many cities and States will need additional funds to meet rising costs of operating the program and to reach at least 1.2 million more needy children. Schools are confronted with the prospect of terminating or sharply curtailing their lunch programs to stay within their budgets. Unless funds are increased, we will therefore be taking food from the mouths of hungry children.

Mr. Speaker, in light of the compelling facts and conditions above, I urge firm support for this vital legislation which will be a giant step toward attaining our goal of having no child go hungry.

Mr. PUCINSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion of the gentleman from Ilinois that the House suspend the rules and pass the bill H.R. 5257, as amended.

The question was taken.

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 332, nays 0, not voting 101, as follows:

[Roll No. 92]

YEAS—332

Abbitt	Findley	Matsunaga
Abernethy	Fisher	Mayne
Abourezk	Flowers	Mazzoli
Abzug	Flynt	Meeds
Adams	Ford, Gerald R.	Melcher
Addabbo	Ford, William D.	Metcalfe
Alexander	Forsythe	Michel
Anderson, Ill.	Fountain	Mikva
Andrews, Ala.	Fraser	Miller, Calif.
Annunzio	Frenzel	Miller, Ohio
Archer	Frey	Mills
Arends	Fulton, Pa.	Minish
Ashley	Fuqua	Mink
Aspinall	Gallagher	Minshall
Baker	Garmatz	Mitchell
Baring	Giaimo	Mizell
Begich	Gibbons	Mollohan
Belcher	Gonzalez	Monagan
Bell	Goodling	Montgomery
Bennett	Gray	Moorhead
Bergland	Griffin	Morse
Betts	Griffiths	Mosher
Bevill	Gross	Moss
Biester	Grover	Murphy, N.Y.
Bingham	Gubser	Myers
Blanton	Gude	Natcher
Blatnik	Hagan	Nedzi
Boggs	Haley	Nelsen
Boland	Hall	Nichols
Bolling	Halpern	Obey
Bow	Hamilton	O'Konski
Brasco	Hammer-schmidt	O'Neill
Bray	Hanley	Passman
Brinkley	Harrington	Patten
Brotzman	Harsha	Pelly
Brown, Mich.	Harvey	Pepper
Brown, Ohio	Hastings	Perkins
Broyhill, N.C.	Hathaway	Pettis
Broyhill, Va.	Hawkins	Peyser
Buchanan	Hays	Pickle
Burke, Fla.	Hébert	Pike
Burke, Mass.	Hechler, W. Va.	Pirnie
Burleson, Tex.	Helstoski	Poage
Burlison, Mo.	Henderson	Poff
Burton	Hicks, Mass.	Powell
Byrnes, Wis.	Hicks, Wash.	Preyer, N.C.
Byron	Hogan	Price, Tex.
Caffery	Holifield	Pucinski
Camp	Horton	Purcell
Carey, N.Y.	Hosmer	Quie
Carney	Howard	Quillen
Carter	Hull	Rangel
Casey, Tex.	Hungate	Rees
Cederberg	Hunt	Reid, Ill.
Celler	Hutchinson	Reid, N.Y.
Chamberlain	Ichord	Reuss
Chappell	Jarman	Rhodes
Chisholm	Johnson, Calif.	Riegle
Clancy	Johnson, Pa.	Roberts
Clausen, Don H.	Jones, Ala.	Robinson, Va.
Clawson, Del	Jones, N.C.	Rodino
Cleveland	Jones, Tenn.	Roe
Collier	Karth	Rogers
Collins, Tex.	Kastenmeier	Roncalio
Conable	Kazen	Rooney, N.Y.
Conte	Keating	Rosenthal
Conyers	Kee	Rostenkowski
Culver	Keith	Roybal
Daniel, Va.	King	Ruth
Daniels, N.J.	Koch	Ryan
Danielson	Kuykendall	St Germain
Davis, Ga.	Kyros	Sandman
Davis, S.C.	Landgrebe	Sarbanes
Davis, Wis.	Landrum	Satterfield
de la Garza	Latta	Saylor
Dellenback	Leggett	Scherle
Denholm	Lennon	Schmitz
Dennis	Lent	Schwengel
Derwinski	Link	Scott
Devine	Lloyd	Sebelius
Diggs	Long, Md.	Seiberling
Dingell	McClory	Shipley
Donohue	McClure	Shoup
Dorn	McCollister	Shriver
Downing	McCormack	Sikes
Drinan	McDade	Sisk
Dulski	McDonald, Mich.	Skubitz
Duncan	McFall	Slack
du Pont	McKay	Smith, Calif.
Dwyer	McKinney	Smith, Iowa
Eckhardt	McMillan	Smith, N.Y.
Edmondson	Madden	Snyder
Edwards, Ala.	Mahon	Spence
Edwards, Calif.	Mailliard	Springer
Esch	Mann	Stafford
Eshleman	Martin	Staggers
Evans, Colo.	Mathis, Ga.	Stanton, J. William
Evins, Tenn.		Steed
Fascell		Steiger, Ariz.

Steiger, Wis.	Ullman	Whitten
Stokes	Van Deerlin	Williams
Stubblefield	Vanik	Wilson, Bob
Talcott	Veysey	Wolff
Taylor	Vigorito	Wright
Teague, Calif.	Waggonner	Wylie
Teague, Tex.	Waldie	Wyman
Terry	Wampler	Yates
Thompson, Ga.	Ware	Young, Tex.
Thompson, N.J.	Watts	Zion
Thomson, Wis.	Whalen	Zwach
Thone	White	
Tiernan	Whitehurst	

NAYS—0

NOT VOTING—101

Anderson, Calif.	Foley	Pryor, Ark.
Anderson, Tenn.	Frelinghuysen	Railsback
Andrews, N. Dak.	Fulton, Tenn.	Randall
Ashbrook	Galifianakis	Rarick
Aspin	Gaydos	Robison, N.Y.
Badillo	Gettys	Rooney, Pa.
Barrett	Goldwater	Roush
Biaggi	Grasso	Rousselot
Blackburn	Green, Oreg.	Roy
Brademas	Green, Pa.	Runnels
Brooks	Hanna	Ruppe
Broomfield	Hansen, Idaho	Scheuer
Byrne, Pa.	Hansen, Wash.	Schneebeli
Cabell	Heckler, Mass.	Stanton, James V.
Clark	Hillis	Steele
Clay	Jacobs	Stephens
Collins, Ill.	Jonas	Stratton
Colmer	Kemp	Stuckey
Corman	Kluczynski	Sullivan
Cotter	Kyl	Symington
Coughlin	Long, La.	Udall
Crane	Lujan	Vander Jagt
Delaney	McCloskey	Whalley
Dellums	McCulloch	Widnall
Dent	McEwen	Wiggins
Dickinson	McKevitt	Wilson, Charles H.
Dow	Macdonald, Mass.	Winn
Dowdy	Mathias, Calif.	Wyatt
Edwards, La.	Morgan	Wydler
Eilberg	Murphy, Ill.	Yatron
Erlenborn	Nix	Young, Fla.
Fish	O'Hara	Zablocki
Flood	Patman	
	Podell	
	Price, Ill.	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Delaney with Mrs. Heckler of Massachusetts.

Mr. Barrett with Mr. Widnall.

Mr. Kluczynski with Mr. Railsback.

Mr. Charles H. Wilson with Mr. Mathias of California.

Mr. Podell with Mr. Ruppe.

Mr. Macdonald of Massachusetts with Mr. Coughlen.

Mr. Biaggi with Mr. Wydler.

Mr. Morgan with Mr. Frelinghuysen.

Mr. Anderson of California with Mr. Andrews of North Dakota.

Mr. Brooks with Mr. Hillis.

Mr. Edwards of Louisiana with Mr. Dickinson.

Mr. Galifianakis with Mr. Jonas.

Mr. Rooney of Pennsylvania with Mr. McEwen.

Mr. Anderson of Tennessee with Mr. Vander Jagt.

Mr. Rarick with Mr. Ashbrook.

Mr. Udall with Mr. McCloskey.

Mr. Stephens with Mr. Blackburn.

Mrs. Sullivan with Mr. Lujan.

Mr. Hanna with Mr. Goldwater.

Mr. Badillo with Mr. Dellums.

Mr. Clark with Mr. Erlenborn.

Mr. Dent with Mr. Whalley.

Mr. Flood with Mr. Broomfield.

Mr. Gettys with Mr. Crane.

Mrs. Green of Oregon with Mr. McKevitt.

Mr. Pryor of Arkansas with Mr. Young of Florida.

Mr. Nix with Mr. Dow.

Mr. Long of Louisiana with Mr. Wyatt.

Mr. Stratton with Mr. Kemp.

Mr. Yatron with Mr. Hansen of Idaho.

Mr. Aspin with Mr. Kyl.

Mr. Brademas with Mr. Steele.

Mr. Fulton of Tennessee with Mr. Schneebeli.

Mr. Patman with Mr. Fish.

Mr. Byrne of Pennsylvania with Mr. Wiggins.

Mr. Stuckey with Mr. Rousselot.

Mr. Jacob with Mr. Winn.

Mr. Colmer with Mr. Murphy of Illinois.

Mr. Corman with Mr. Clay.

Mr. Symington with Mr. James V. Stanton.

Mr. Cabell with Mr. Dowdy.

Mr. Cotter with Mr. O'Hara.

Mr. Price of Illinois with Mr. Roy.

Mrs. Grasso with Mr. Gaydos.

Mr. Runnels with Mr. Randall.

Mr. Roush with Mr. Scheuer.

Mr. Foley with Mr. Eilberg.

Mr. Collins of Illinois with Mr. Green of Pennsylvania.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PUCINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous material on the bill just passed.

The SPEAKER. It there objection to the request of the gentleman from Illinois?

There was no objection.

EXTENSION OF COMMISSION ON GOVERNMENT PROCUREMENT

Mr. HOLIFIELD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4848) to amend the act of November 26, 1969, to provide for an extension of the date on which the Commission on Government Procurement shall submit its final report.

The Clerk read as follows:

H.R. 4848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 4 of the Act of November 26, 1969 (83 Stat. 271; 41 U.S.C. 251, note), is amended to read as follows:

"(b) The Commission shall make, on or before December 31, 1972, a final report to the Congress of its findings and its recommendations for changes in statutes, regulations, policies, and procedures designed to carry out the policy stated in section 1 of this Act. In the event the Congress is not in session at the time of submission, the final report shall be submitted to the Clerk of the House and the Secretary of the Senate. The Commission may also make such interim reports as it deems advisable."

The SPEAKER. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. HOLIFIELD) is recognized.

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

Mr. Speaker, H.R. 4848 will extend for 13 months the date on which the Commission on Government Procurement may submit its final report now due to be made by November 26, 1971.

The Commission was created by Public Law 91–129 to study statutes and policies, rules, regulations, and practices followed by the various agencies of the executive branch in procurement, as well as the organizations by which procurement is accomplished and, then, to submit recommendations for promoting economy, efficiency, and effectiveness in procurement to the Congress.

The legislation was reported from our committee in 1969 after extensive hearings held by our Subcommittee on Military Operations. The information we gathered in those hearings proved beyond question that the procurement policies of the Government needed coordination and improvement. This required the work of experts and Congress set up the Commission to supply this need. At the time the legislation was considered it was thought that 2 years would be sufficient, but we could not anticipate all of the circumstances which could arise to delay the completion of the Commission's work. We found the delays to be legitimate and unavoidable.

The Commission is a bipartisan body composed of 12 members. Its chairman is E. Perkins McGuire, former Assistant Secretary of Defense. Other members are: Joseph W. Barr, former Secretary of the Treasury, Representative FRANK HORTON, and myself—all three appointed by the Speaker of the House; Richard E. Horner, president of the E. F. Johnson Co., Senator HENRY M. JACKSON, and Senator EDWARD J. GURNEY, all three appointed by the President of the Senate, and Robert L. Kunzig, Administrator of the General Services Administration, Frank Sanders, Assistant Secretary of the Navy, Paul Beamer, executive vice president of the Electro Fiberoptics Corp., Peter Dierks Joers of the Weyerhauser Corp., and, along with Chairman McGuire, all appointed by President Nixon. Comptroller General Elmer Staats was made a member by the statute itself.

Due to delays in the appointments, the Commission was not able to hold its first meeting until April of 1970 and the top executives were not all on the job until August. Recognizing the need to bring differing viewpoints and varying experience into play, the Commission decided to form study groups to review defined areas, to gather pertinent data and opinions from working levels and interested members of the public as well as top management, and to submit their findings to the Commission for consideration in forming its report to the Congress.

To man these study groups, it was decided to borrow experts from industry, from Government agencies, from academic institutions and from various associations. Arrangements have now been made for almost 150 full-time personnel and some 200 part-time participants to assist the Commission in this study effort. Identifying the skills, and the mixes of experience and viewpoint necessary to insure full, substantiated results, locating individuals having the requisite abilities and background, and arranging for their loan to the Commission for 9 to 12 months of study, took longer than anticipated. Thus, it was not until March of this year—1971—that the 13 study groups were established and at work.

Mr. Speaker, I served on the Second Hoover Commission and I know from personal experience what is involved in a comprehensive study such as the Procurement Commission is undertaking, and if the Congress is going to get the full benefit of what can be accomplished it will take additional time.

The request for the extension was agreed to unanimously by the members of the Commission, it is supported by the Nixon administration and by the Comptroller General.

Our committee concurs in the estimate of the Commission that the extension of 13 months will cost approximately $1.4 million in addition to its current apporopriation. The expenditure will be well worthwhile, as I am certain many millions of dollars will be saved as a result of the Commission's work.

As we say in the report, we are satisfied that the work will be completed in the requested time and no further extensions will be needed.

I hope the Members of the House will give overwhelming support to this legislation.

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

Mr. HOLIFIELD. I am glad to yield to the gentleman from Missouri.

Mr. HALL. I wonder if the distinguished gentleman, who has made such a forthright statement, could advise us a little bit more about the real reasons for the "legitimate and unavoidable delay" in the functioning of this Commission as stated in the report?

Mr. HOLIFIELD. Well, the primary reason was an approximately 5-month delay in the appointment of the Commission, to begin with, in the first year of its life.

The next problem was getting the people to serve on the Commission. One of the problems was due to the tight fiscal situation; so many of the companies were loathe to spare the people that we felt were the ones we wanted.

Now, we could have picked up names almost anywhere, but we wanted to get certain types who could fill in with expertise in certain areas. Mr. Maguire, who is a distinguished businessman himself, I think did a very good job in going rather slowly on getting the people together. We have real confidence that we have first-raters throughout both in the 150 full-time workers and in the 200 part-time workers who are furnished at the expense of various industries. There is no salary attached. We do pay their transporation whenever transportation costs are needed.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's added statement. I think it is helpful to this record.

When the group broke up into various study groups, did they contract out a lot of the work to be done?

Mr. HOLIFIELD. No. Contracting has been kept to a minimum. These are working groups. I had the opportunity a week ago of attending one of these study groups. No. 3 it was. They were having one of their field hearings at the time. They are going around to the different centers of industry and commerce and are holding hearings in which they invite in the people engaged in contracting with the Government. They listen to their complaints on Government procedures and their criticisms of contracts and procedures in bidding and with respect to the different types of bids and so forth. I found it to be a very good experience to see this working group at the local level. In other words, we are taking it to them rather than asking them to come out here to Washington.

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

Mr. HALL. I would like to ask one additional question.

Mr. HORTON. I would like to add something in connection with it.

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

Mr. HORTON. That is primarily the work of these task forces is being done in-house. Very little of it is being done by contract, in answer to the question proposed by the gentleman from Missouri.

Mr. HOLIFIELD. I thank the gentleman.

Mr. HALL. Will the gentleman yield further?

Mr. HOLIFIELD. Yes. I yield to the gentleman.

Mr. HALL. Certainly on the basis of my primary committee assignment, I understand the need for updating of methods and techniques for procurement. I look forward to this Commission's report with a great deal of interest. As I understand it, the total cost is estimated to be about $7 million. Is that correct?

Mr. HOLIFIELD. I would say that is a ceiling. I think it will run less than that.

Mr. HALL. I would hope so.

Then my final question is this: If we are delaying the time for submission of the final report by 13 months or up until December 31, 1972, why do we fund it through fiscal year 1973?

Mr. HOLIFIELD. Well, there will be an estimate of about 60 days to wind up the affairs, the papers, and all that sort of thing. That will be mostly clerical. The report comes in within the month, and they will have some cleanup work which will not amount to very much.

Mr. HALL. But there is no intent to continue this type of commission?

Mr. HOLIFIELD. No; there is not.

I might say very frankly to the gentleman that we would have made it a straight 12-month extension, but then that report would have been brought out just before the election and there would have been a lot of charges of partisan politics. So far in this work there has not been one degree of partisanship. The people have been working toward the objective of really doing some good work. And we felt like to bring out the report right before the 1972 presidential election, it would either be buried insofar as attention is concerned, or it would be called partisan by one side or the other. So this would carry it over past the November election.

Mr. HALL. Mr. Speaker, I would certainly not doubt the committee's wisdom and that of the distinguished chairman in that regard.

However, my question addressed itself simply to the question as to why allow 6 months' funding during which to do a 60-day job insofar as the final authorization of the expenditure of appropriations is concerned?

Mr. HOLIFIELD. We shall watch this very closely and shall be as economical as we can, I will say to the gentleman.

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

Mr. Speaker, I rise in support of this bill, H.R. 4848, as one of the cosponsors and indicate my concurrence with the remarks which have been made by the gentleman from California (Mr. HOLIFIELD).

As a member of the Procurement Commission, I am familiar with the reasons for the extension request and concur with them completely.

The matter was heard by our Subcommittee on Government Operations and then reported out by the Government Operations Committee unanimously.

Mr. Speaker, I want to fully endorse the statement of the distinguished chairman of the Government Operations Committee in support of H.R. 4848 which he and I introduced.

Chairman HOLIFIELD and I have long been associated with efforts "to promote economy, efficiency, and effectiveness in the procurement of goods, services, and facilities by and for the executive branch of the Federal Government" as the policy statement reads in the act establishing the Commission on Government Procurement. Upon the establishment of the Commission, he and I were appointed to it by the Speaker of the House. Since then, we have done our best to see that the Commission performed as well as possible the difficult assignment with which it was charged by the Congress.

As the chairman pointed out, the organization of the Commission, the development of its study program, and the establishment of its study groups took longer than originally anticipated. On the basis of my close observation of the performance to date of the Commission and staff, I can report unequivocally that there has been no undue wastage of effort or resources. Indeed, I feel the Commission and staff have done an excellent job of structuring the study effort. I believe the extra time required for these initial phases of the Commission's work was absolutely essential if we are to receive from the Commission the quality effort required.

Mr. Speaker and my colleagues, we need the detailed study being planned by the Commission if we are to have "economy, efficiency, and effectiveness" in Federal procurement. I urge the House to pass H.R. 4848, which will allow the Commission the time necessary to prepare its report.

Mr. Speaker, I urge my colleagues to support and approve the extension as contained in the bill H.R. 4848.

Mrs. DWYER. Mr. Speaker, I rise in support of H.R. 4848, to provide for an extension of the date on which the Commission on Government Procurement shall submit its final report. This bill has the unanimous support of the Government Operations Committee on which I

have the honor of serving as ranking minority member. I wish also to express my complete faith and trust in the work of the two Members of the House, the gentleman from California (Mr. HOLIFIELD), and the gentleman from New York (Mr. HORTON), who have given so much of their time and effort to the legislation establishing the Commission, and, now that they are members of the Commission, to the work of that body. Their presence on the Commission assures us of a high-quality report.

The SPEAKER. The question is on the motion of the gentleman from California that the House suspend the rules and pass the bill H.R. 4848.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

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

There was no objection.

LIBERALIZATION OF ELIGIBILITY FOR COST-OF-LIVING INCREASES IN CIVIL SERVICE RETIREMENT ANNUITIES

Mr. WALDIE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7964) to liberalize eligibility for cost-of-living increases in civil service retirement annuities, as amended.

The Clerk read as follows:

H.R. 7964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8340(c) of title 5, United States Code, is amended—

(1) by renumbering paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively; and

(2) by inserting immediately above paragraph (2) (renumbered as such by paragraph (1) of this section), the following new paragraph:

"(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

"(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

"(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.".

SEC. 2. Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when such increase results from an employee-management agreement under title 39, or any administrative action taken pursuant to law, which authorizes increases in pay on which such benefits are computed.

"(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in thirty equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the first fiscal year after the fiscal year in which an increase in pay becomes effective.".

SEC. 3. Section 1005(d) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h)(2) of title 5.".

SEC. 4. The amendments made by the first section of this Act shall apply only with respect to annuities which have a commencing date after the effective date of the first annuity increase under section 8340(b) of title 5, United States Code, which occurs on or after the date of enactment of this Act. The amendment made by section 3 of this Act to section 1005(d) of title 39, United States Code, as enacted by the Postal Reorganization Act (84 Stat. 732; Public Law 91-375), shall become effective on that date on which the other provisions of such section 1005(d) become effective.

The SPEAKER. Is a second demanded?

Mr. SCOTT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

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

Mr. Speaker, I take this time to briefly explain the dual purpose of the legislation under consideration, and to urge its unanimous adoption and early enactment.

The bill before the House is based, in part, upon an administration recommendation. By letter dated March 25, 1971, addressed to the Speaker of the House, the Chairman of the U.S. Civil Service Commission submitted for the consideration of the Congress, and recommended favorable and expeditious action on a proposal which is incorporated in the first section of H.R. 7964, S. 1681, a bill which is devoted solely to the matter covered by the first section of H.R. 7964, was passed by the Senate last Friday.

The civil service retirement law provides for the automatic upward adjustment of annuities when the cost of living, as determined by the Bureau of Labor Statistics' nationwide Consumer Price Index, goes up at least 3 percent over the price index for the month used as the basis for the most recent adjustment, and stays at or exceeds 3 percent for 3 successive months. Since this feature of the law become operable in 1965, six cost-of-living increases have already been authorized, with the seventh increase scheduled the first of next month, June 1, 1971.

Under existing law, in order to be eligible to receive any such increase, an employee must retire no later than the last day of the month preceding the month in which the particular increase becomes effective. For example, in order to get the upcoming June 1, 1971, increase in annuity, an employee must retire no later than May 31, 1971. However, if he continues to work after that date and retires some months later, he may receive an annuity benefit smaller than that which would have been payable had he retired on May 31. Although his additional service and higher average salary will result in a larger earned benefit than would otherwise have been earned on May 31, it will take him from 3 to 10 months, depending upon his particular service history, to recoup the 4½-percent increase he could receive by retiring on May 31.

Similarly, for a widow to receive the 4½-percent increase in her annuity, her employee-husband must die before June 1. Should his death occur on or after June 1, the widow, ironically, will not be entitled to the increase.

One of the purposes of H.R. 7964 is to eliminate the anomaly of an employee who is separated for retirement—either voluntarily, involuntarily by reductions in force, on account of disability—on or soon after the effective date of an increase receiving a smaller annuity than one who retires before the effective date, despite the fact that he may have as much or more service and an equivalent or larger average salary. The parallel anomaly with respect to widows of deceased employees will likewise be removed. The bill corrects this inequitable condition by guaranteeing that an employee who retires on or after the effective date of a cost-of-living increase, and the spouse of an employee who dies thereafter, will receive an annuity at least as large as would have been paid had retirement or death occurred immediately prior to such effective date.

Additionally, present law works to cluster an abnormal number of retirements immediately prior to the effective date of every cost-of-living increase. Normally, the normal flow of retirements from Government service would average about 5,000 each month. However, in practice, employees who had been contemplating retiring within 6 months or so after such an event advance their retirement to just before the effective date so as to derive the benefit of the cost-of-living increase. To illustrate, the most recent increase, which was triggered last August 1, produced approximately five times the number of retirements that occur in a normal month. Similar experience is reflected on all such occasions, and results in placing a burdensome workload upon the Civil Service Commission in adjudi-

cating a peakload of claims; causes months of delay in the issuance of annuity awards and benefit payments; increases the administrative costs of the program by requiring overtime pay to process the workloads; and adversely affects the operations of Federal agencies when an inordinate number of employees suddenly decide to retire.

The legislation will serve to alleviate these adverse effects by moderating the peaking of retirements just before increases become effective, and by reducing the disruption in agency operations on such future occasions.

The committee has amended the introduced bill to reaffirm and strengthen the policy it laid down in the last Congress with respect to the financial stability of the civil service retirement fund. By enacting the Daniels-McGee Act of 1969, the Congress established, among others, the policy that the costs of future unfunded liabilities in the Fund which result from increases in pay upon which annuities are computed shall be fully financed. When enacting pay legislation the Congress recognizes the resultant costs which accrue to the retirement system and, by amortization, assumes the responsibility of paying for them in equal annual appropriation installments over 30-year periods. Adherence to that policy, where the Congress controls the paying-fixing machinery, precludes further increases in deficiencies which existed prior to the enactment of the financing provisions of Public Law 91–93.

However, since the recently enacted Postal Reorganization Act transfers the pay-fixing authority for postal employees to the new Postal Service, the Congress has no control over nor any longer has responsibility for costs resulting from negotiated agreements or administrative actions of that independent agency. Although postal employees will continue to participate in the civil service retirement system, the Postal Reorganization Act was somewhat deficient in failing to require the Postal Service to be liable for funding of the retirement costs associated with its pay-fixing authority.

It is in this latter respect that our committee's version of the legislation differs from the Senate-passed version. It is the consensus of our committee, however, that the Postal Service, as a self-sufficient entity, should bear the responsibility for additional retirement costs it incurs to the retirement fund by virtue of its own actions.

Accordingly, the committee amendment will require the Postal Service to pay into the retirement fund, in a manner similar to that by which the Congress fulfills its obligations, moneys to amortize any unfunded liabilities which are attributable to postal salary increases.

Mr. Speaker, this legislation was unanimously approved by the committee. I, therefore, urge its unanimous adoption by the House.

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

Mr. WALDIE. I yield to the gentleman.

Mr. CHAPPELL. Mr. Speaker, as the ranking member of the Retirement Subcommittee, and having had the privilege of chairing the subcommittee's hearing on this legislation, I rise in wholehearted support of H.R. 7964.

As the gentleman from California has indicated, because of the anomaly of the present law, an employee who retires soon after the effective date of a cost-of-living increase receives a smaller annuity than does an employee with the same service beginning date and 3-year salary average who retires on or before the effective date. Thus, even though the employee who retires after the effective date has more service, he receives a lesser annuity.

This, of course, is patently unfair and should be corrected.

The Civil Service Commission, in advocating the changes to be made by passage of H.R. 7964, has testified that the present law produces a bunching of retirements immediately before the effective date of every cost-of-living annuity increase. This bunching results in administrative problems and heavy expense by the Commission in attempting to cope with the abnormal number of retirements.

The retirement at one time of a number of key personnel also works hardships on Government agencies.

The costs resulting from this modification in the retirement law will be largely offset by reduced expense incurred by the Civil Service Commission.

The Commission has estimated that interest payments on the additional unfunded liability in the retirement fund will begin at $53,000 in fiscal year 1972 and will rise to a highest expense of $265,000 in fiscal year 1980. The Commission reports that these costs will be offset by a savings of some $250,000 in administrative expenses which must be incurred at every cost-of-living annuity increase, due to the "bunching" of retirements by personnel who retire before the effective date of the increase in order to qualify for it.

In amending the subcommittee-reported bill, the full Committee on Post Office and Civil Service clarifies and confirms the principle to which the Congress subscribed in enacting the Retirement Financing Amendments of 1969, and remedies a deficiency in the Postal Reorganization Act of 1970. The Postal Reorganization Act is premised upon the Postal Service becoming a self-sufficient entity, with Congress no longer playing a role in fixing the pay of postal employees.

Although employees of the Postal Service will continue to be subject to the civil service retirement program, and the Postal Service, as the employer, will contribute its share of the normal costs of the program, no financing provision was made in the Reorganization Act to cover any unfunded liabilities that will be created by that independent entity in granting future salary increases under its paysetting authority.

The committee amendment remedies that particular deficiency, and restates the intent of the Congress that any newly created unfunded liabilities in the retirement system which arise from increases in employees' pay shall be fully funded under the amortization principle adopted by the 91st Congress in enacting title I of Public Law 91–93.

I subscribe to the dual purpose of the bill, Mr. Speaker, and I urge the House to lend its unanimous support to this legislation.

Mr. SCOTT. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the bill, H.R. 7964, and join the distinguished chairman of the subcommittee in the remarks he has made in favor of its enactment.

Mr. Speaker, this measure was recommended by the Civil Service Commission. Thereafter it was unanimously passed by our commitee. There was a difference of opinion within the committee as to the procedure under which the amendment was adopted by the full committee. However, the reporting of the bill, as amended by the committee, was by a unanimous vote of 19 to 0.

Mr. Speaker, as the Members know, under the present law there is a cost-of-living increase every time the cost of living rises by 3 percent or more, and an additional 1 percent is added for the delay in effecting the change in the cost-of-living increase.

At the present time it is expected that on June 10 of this year there will be a cost-of-living increase, but in order for a Government employee to obtain this cost-of-living increase, he must retire not later than May 31. This results in a large number of people retiring on the last day that they can retire and still obtain this cost-of-living increase in compensation.

The proposals before us now would change this requirement and would spread the time within which an employee could retire and still obtain the cost-of-living increase.

The measure provides that after the effective date of the bill no one retiring after the day that the cost-of-living increase is effective shall receive less in retirement pay than they would have received had they retired prior to the effective date.

Enactment of this bill will help the Civil Service Commission in computing annuities in that they can do this over a wider period of time. It will also help the executive departments and independent agencies in that they will not have a large number of employees retiring at the same time. This will mean that work within the departments and agencies can proceed in a normal way without being handicapped by a large number of retirements within a short period of time.

Mr. Speaker, I believe this is a good bill and I again join the chairman of the subcommittee in urging that we have a unanimous vote in favor of the passage of this proposal.

Mr. Speaker, the second phase of the bill relates to the Postal Service. It provides that the Postal Service shall contribute to the unfunded liability in the same manner in which the Congress, through its appropriations committee, contributes on behalf of other civilian Government employees when additional benefits are provided. This is something, I believe, our committee and the Congress neglected to do when the postal

reform measure was passed during the 91st Congress.

There are roughly one-fourth of all Government employees, amounting to something over 700,000 Government employees, who work for the Postal Service. We tried during the 91st Congress to make the retirement fund actuarially sound. I think we did a good job on that, but now we are faced with the possibility that the new Postal Service will not contribute its portion to the unfunded liability. This is just a part of plugging the leak in the present law so that we will keep the fund sound.

I think it is a sound measure because if we are going to have a retirement fund, we need to have the money available to pay the retiree when he leaves the Federal service. Certainly we do not want to reverse the congressional action of the last Congress in providing for the soundness of the retirement fund. I urge the approval of this bill.

Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Speaker, I appreciate the gentleman's yielding, and I commend him for his remarks.

Mr. Speaker, I rise in support of H.R. 7964, which will correct an anomaly that exists with respect to cost-of-living adjustments in civil service retirement and survivor annuities.

This legislation has the support of the Nixon administration as well as the unanimous support of our Post Office and Civil Service Committee. It has been cosponsored by the distinguished chairman of our committee, Mr. DULSKI, myself, and many of our committee members.

Mr. Speaker, this is good, commonsense legislation, and will aid the U.S. Civil Service Commission to handle its administrative duties better and at the same time assure Federal employees who retire after the effective date of a cost-of-living annuity adjustment to insure that their civil service annuity shall not be less than the increased annuity which would have been payable had the employee retired immediately prior to the effective date of that adjustment.

For too long a period now under the present cost-of-living provision, employees and the Commission have shared in a most unfortunate situation. Certain employees who retired after the effective date of the cost-of-living adjustment have received an annuity less than that of another Government employee who has identical service, tenure, and salary base but who retired on or prior to the effective date of the cost-of-living adjustment. The Commission on the other hand has had the burdensome and costly problem of administering an inordinate number of applications prior to the effective date of the cost-of-living adjustment.

As an example, August 1, 1970, the latest cost-of-living adjustment produced 19,000 retirements in addition to the 5,000 or less that occur in a normal month. This bunching of retirements also creates a major problem in the Federal agencies throughout the Government because valued employees working on current projects who retire must be rehired on a consultant basis to finish their work.

Mr. Speaker, enactment of this legislation will help to eliminate these problems.

I urge prompt passage of H.R. 7964.

Mr. SCOTT. Mr. Speaker, I yield to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, it is not my intention to in any way interfere with the processing of this bill which I supported in committee, and do so here this afternoon. However, I submitted supplemental views to the committee report in an effort to direct the attention of Members to questions which I feel, to this moment, have been unanswered.

My views, as contained in the committee report follow:

SUPPLEMENTAL VIEWS OF HON. EDWARD J. DERWINSKI ON H.R. 7964

I appreciate the fact that when this legislation is considered on the Floor, the main thrust of discussion will probably be directed at the Committee amendment which requires the Postal Service to assume the responsibility for any increases in the unfunded liability of the Civil Service Retirement Fund as a result of negotiated pay increases. However, I wish to alert the Members to the basic policy concept embraced by the bill, with the thought that the path we are taking should be clearly outlined.

In simple terms, the bill allows an employee to retire after the effective date of a cost of living increase and still receive an adjusted annuity which would be no less than the one he would have received had he retired prior to the effective date of the cost of living adjustment.

In practicality, what we are doing is erasing any differential between the active and retired employee so far as cost of living adjustments are concerned. This is the point I hope that all the Members will understand.

Admittedly, the Civil Service Commission justifies this action on the ground that it would level out the peaking of retirements which are triggered by cost of living annuity increases.

Be that as it may, consideration should be given to whether cost of living increases should only go to retired Federal employees living on fixed incomes and who are the real victims of inflation.

The history of cost of living annuity increases may throw some light on the answer. In 1962, when the cost of living increase language originated, there was an actual requirement, because of the wording of the law, that an annuitant be on the rolls for at least 15 months in order to qualify for the increase.

Then, in 1965, along with other amendments to the Retirement law, we eliminated this 15-month requirement and, in effect, permitted the cost of living allowance to go to all employees who are on the rolls the day before the increase becomes effective.

One of the results of the 1965 change was that this type of "bonus increase" encouraged eligible employees to retire on a given date and clear out on a periodic basis employees who would otherwise hang on indefinitely.

Now, with this bill, we change that policy and remove the incentive to the employee to fix a retirement date.

While I supported the amended bill as it come from the Committee, the three-day span in which the legislation was considered in public hearings, subcommittee markup, and full committee markup was certainly not sufficient time to thoroughly air this policy change. Therefore, I take this means to alert the Members in the event that we are faced with troublesome consequences sometime in the future.

EDWARD J. DERWINSKI, M. C.

Mr. WALDIE. Mr. Speaker, I yield to the distinguished chairman of the Post Office and Civil Service Committee, the gentleman from New York (Mr. DULSKI).

Mr. DULSKI. Mr. Speaker, I rise in support of H.R. 7964, which liberalizes the eligibility requirements for cost-of-living increases in civil service retirement annuities. I sponsored this bill on the basis of an official recommendation by the Chairman of the United States Civil Service Commission. The bill was ordered reported by our committee with an amendment by a record vote of 19 to 0.

The primary purpose of this bill is to eliminate the inequity that exists under the present civil service retirement law in connection with cost-of-living adjustments in annuities, and administrative problems that have arisen whenever such adjustments are made.

Under existing law, an employee who retires soon after the effective date of a cost-of-living increase actually receives a smaller annuity than does an employee of the same age, length of service, and average salary who retires before the effective date of that increase.

The present law produces a bunching of retirements immediately before the effective date of every cost-of-living increase. This bunching of retirement applications adversely affects the administration of the Civil Service Retirement System and results in additional administrative expenses of approximately $250,000 each time there is a cost-of-living annuity increase. The additional expense is due mainly to the overtime which is necessary to process the increased number of retirement applications.

The provisions contained in the first section of H.R. 7964 will operate to eliminate this problem.

Another purpose of the bill under sections 2 and 3, which were added by the committee amendment, is to require the Postal Service to pay into the retirement fund amounts necessary to cover the unfunded liability which occurs whenever Postal Service employees are granted an increase in pay.

I supported the committee amendment on the basis that it is consistent with the congressional policy established under the Postal Reorganization Act. That policy is that all costs of postal operations are to be an obligation of the Postal Service to be covered by postal rates and fees or appropriations made specifically to the Postal Service.

Under this policy any new increase in the unfunded liability of the civil service retirement fund occasioned by pay increases for postal employees should be an obligation of the Postal Service, but the existing law does not require such obligation to be paid by the Postal Service. Sections 2 and 3 of the reported bill will correct this omission in the Postal Reorganization Act. For each dollar increase in pay for Postal Service employ-

ees the unfunded liability in the civil service retirement fund increases by $2.61. Each 1-percent increase in postal pay increases the payroll cost by approximately $65.5 million, and the unfunded liability by $171.3 million. Under this legislation, the increase in unfunded liability resulting from each 1-percent increase in postal pay will require payments by the Postal Service at the rate of $9 million per year for 30 years.

This morning I received a report from the Postmaster General on these provisions. He does not oppose the provisions but recommends that action be deferred until hearings can be scheduled and testimony received from the Civil Service Commission, the Postal Service, employee representatives, and representatives of mailers. A copy of the Postmaster General's letter dated May 14, 1971, will be inserted at the end of my statement.

Mr. Speaker, our committee held months of hearings in 1969 before the congressional policy on the obligation of the Postal Service was established. I feel sure that the Members will agree that this policy would not be changed by scheduling additional hearings on this proposal. I see no reason to delay enactment on these provisions to schedule such hearings.

Mr. Speaker, I also received a communication this morning from the president of the Board of Education of the District of Columbia recommending that this legislation include an amendment extending the same cost-of-living annuity benefits to teachers of the District of Columbia. The teachers have a retirement system that is practically identical to the civil service retirement system and without such amendment the teachers who wish to have the benefits of the cost-of-living increase effective June 1 must retire on or before May 31 prior to completion of the full school year during June. Mr. Speaker, had I known of this inequity I would have consulted with the District of Columbia Committee, which has jurisdiction over District of Columbia teachers' retirement system, and if they had agreed I would have favored adding an amendment to this legislation. Unfortunately, it is too late now to add such an amendment to the legislation. A copy of the letter from the president of the Board of Education of the District of Columbia is attached to my statement.

The statement and letter follows:

THE POSTMASTER GENERAL,
Washington, D.C., May 14, 1971.

Hon. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on an amendment offered by Mr. Gross to H.R. 7964, a bill "To liberalize eligibility for cost-of-living increases in civil service retirement annuities."

The amendment to the bill would require the Postal Service to make 30 equal annual payments to the Civil Service Retirement Fund to cover increases in the unfunded liability of the Fund due to pay increases granted postal employees as a result of employee-management agreements or as a result of other administrative action.

The amounts the Postal Service would be required to pay under the amendment could reach very large proportions. Under conditions prevailing at the present time, according to information provided by the Chief Actuary of the Civil Service Commission, each one percent of a pay increase will cause a liability to the Fund of approximately $9 million per year for thirty years.

We appreciate this opportunity to comment on the amendment to H.R. 7964. However, we believe that because of the importance of this amendment to the Postal Service, involving potential payment of many hundreds of millions of dollars, hearings should be scheduled and testimony by the Civil Service Commission, the Postal Service, employee representatives, and representatives of mailers should be received and considered before final action is taken. Regardless of what policy the Congress ultimately decides to adopt on this subject, careful consideration of legislation in this area would appear to be warranted.

Accordingly, for the reasons indicated, we respectfully recommend that action on the amendment to H.R. 7964 be deferred until hearings have been held and interested parties have been given an opportunity to express their views.

The Office of Management and Budget has advised that there is no objection to the submission of this report to the Committee from the standpoint of the Administration's program.

Sincerely,

WINTON M. BLOUNT.

BOARD OF EDUCATION OF THE
DISTRICT OF COLUMBIA,
Washington, D.C., May 13, 1971.

Hon. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN DULSKI: Although the District of Columbia Teachers' Retirement System is separate from the Civil Service Retirement System, it is practically identical to the Civil Service System and as a matter of Congressional policy, it is kept consistent with the Civil Service System. [See Senate Report No. 91-839 and House Report No. 91-849 on the District of Columbia Retirement Amendments of 1970 (P.L. 91-263)]. Thus under present law, Teacher Retirement Act annuities as well as Civil Service annuities are adjusted whenever the Consumer Price Index shows a three percent increase over the base amounts for three consecutive months. Such adjustment is scheduled for June 1, 1971. Present employees who have sufficient credit to retire must retire on or before May 31 in order to be entitled to this cost-of-living adjustment.

The school educational employee who is eligible to retire is currently placed in a very unfortunate position. It would be to his monetary advantage to retire on or before May 31, but it is to the advantage of the school system to have such person complete the full school year. It is, therefore, strongly recommended that in the best interest of the school system legislation should be enacted which would allow employees who retire on or after June 1, 1971, to receive the same annuity increment as granted those who retire prior to June 1.

Enactment of such legislation will remove an arbitrary cut-off date and thereby allow school employees to retire at the conclusion of the school year without loss in retirement benefits.

Because of the Congressional policy of keeping benefits under the District of Columbia Teachers' Retirement Act consistent with those afforded the classified employees of the Federal and District of Columbia Government by the Civil Service Retirement Act, I would like to urge your committee to include appropriate D.C. Teachers' Retirement Act amendments in the same bill which amends the Civil Service Retirement Act. In this way, the D.C. Teachers' Retirement Act amendments could become effective at the same time as the Civil Service Retirement Act amendments.

In this particular case, a change in the D.C. Teachers' Retirement Act would need to be made almost concurrently with amendments to the Civil Service Retirement Act if school employees are to have the same benefits as are available to Civil Service employees. If there is a time lag in passage, some teachers will have had to make their retirement decision without the option this suggested legislation would provide.

We, therefore, urge that consideration be given to incorporating into the Civil Service Retirement amendments, identical amendments to the District of Columbia Teachers' Retirement Act so that the latter act may be amended as expeditiously as possible in conformity with Congressional policy to provide school personnel with the same retirement benefits as Civil Service employees.

Sincerely yours,

(Mrs.) ANITA F. ALLEN,
President, Board of Education.

Mr. WALDIE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. DANIELS), chairman of the Subcommittee on Retirement, Insurance, and Health Benefits.

Mr. DANIELS of New Jersey. Mr. Speaker, having had the honor of chairing the Subcommittee on Retirement, Insurance, and Health Benefits in the three previous Congresses and, thus, having played a large role in the enactment of legislation updating the automatic cost-of-living and financing provisions of the civil service retirement law, I rise in support of H.R. 7964, as amended by the Committee on Post Office and Civil Service.

Perhaps a brief review of the legislative history underlying the particular provisions to which we are today addressing ourselves may be of assistance in evaluating the merits of the committee's proposal.

First, the cost-of-living annuity adjustment feature of the law was initially established by the 1962 amendments to the Retirement Act. It provided that whenever the Consumer Price Index of the Bureau of Labor Statistics shall have risen by an average of 3 percent or more for a full calendar year above its average for 1962, a comparable percentage increase would have become effective on April 1 of the following year. It also provided similar increases when a like increase in living costs might occur in subsequent years, but stipulated that any such increases would apply only to those persons who had been on the retirement rolls at the beginning of the calendar year preceding the year in which the increase would become effective—a period of 15 months.

By mid-1965 it became apparent that the cost-of-living provision had not operated as effectively as was anticipated in 1962, and that while living costs were steadily rising, annuitants would receive no increase until April of 1966. As its first order of business, the newly created Sub-

committee on Retirement, Insurance, and Health Benefits devoted its attention to correcting that obviously disappointing result by approving legislation to accelerate the effective application of the cost-of-living principle to a more sensitive monthly price index indicator, in lieu of the existent unrealistic average calendar year indicator. The revision, subsequently enacted as Public Law 89–205, provided for reflecting cost-of-living adjustments more currently—or whenever the Consumer Price Index rises by 3 percent or more for 3 consecutive months after any previous increase resulting from this feature.

However, gearing the provision to a monthly indicator gave rise to the question of applicability—that is, how long should a person be on the annuity rolls before he or she might derive the benefit of a cost-of-living increase? Should he be required to have been an annuitant for 15 months, 1 year, 6 months, or less, in order to enjoy the benefit of the changes proposed? After thoroughly considering various alternatives, it was the consensus of the Members of the 89th Congress that the question of applicability be resolved in the most liberal and administratively feasible manner—namely, that any such increases be applied to all annuities which commence on or before the effective dates of the adjustments. By prescribing such a policy we placed the employee in a position of being able to make his own considered judgment as to when it might be most appropriate and advantageous to exercise his option to retire. Essentially, it is this liberal policy which gives rise to the situation we are attempting to alleviate by H.R. 7964.

Second, the 91st Congress addressed itself to a longstanding problem—the financial condition of the Civil Service Retirement System. The enactment of Public Law 91–93, on October 20, 1969, established a three-pronged program designed to provide in full for the permanent financing of the system, so as to assure that the necessary money is available when needed to pay the annuities of Government retirees and survivor annuitants—in full and on time.

One of the major provisions of that legislation dealt with the recognition of currently accruing retirement costs, such as the costs of future incremental unfunded liabilities which will result from general salary increases for the active work force. In essence, the Congress takes cognizance of the fact, when enacting salary increase legislation, that each dollar of increased pay has an eventual retirement cost of more than $2.50. By recognizing such related costs, the Congress assumes full responsibility for the additional deficiencies it thus creates in the retirement fund. It fulfills that responsibility by authorizing direct appropriations to the fund, amortizing those additional costs in equal annual installments over 30-year periods. The effect of this particular funding practice precludes further deficiencies that would otherwise result, as distinct from growth of the existing unfunded liability attributable to legislation enacted in the past and for which adequate financing was not provided.

Since the enactment of Public Law 91–93 the Congress, through its appropriations process, has been living up to its commitments to amortize the retirement costs it incurs by granting salary increases. In other words, we are exercising fiscal responsibility with respect to our own actions—actions over which the Congress is able to exercise a control. However, passage of the Postal Reorganization Act last year divested the Congress of its control over the pay-fixing authority for employees of the new Postal Service. Such authority is now vested in the U.S. Postal Service, with Congress no longer being a party to pay increases negotiated by employee-management agreements or by administrative action on the part of the Postal Service. Concurrently, the Congress divested itself, at least by implication, of any responsibility for financing the retirement costs which will ultimately result from negotiated wage agreements and administrative salary increases in that independent agency.

It is to this particular problem that the committee's amendment to the introduced bill is addressed. I wish to commend and congratulate the distinguished gentleman from Iowa (Mr. GROSS), the ranking minority member of the committee, for his foresight and good judgment in offering the amendment which remedies a deficiency in the Postal Reorganization Act and reaffirms the committee's policy, as subscribed to under Public Law 91–93, that any new unfunded liabilities which result from increases in salaries shall be recognized and paid for by the party responsible for their creation. Under the amendment, the costs so incurred will, and properly so, be borne by the U.S. Postal Service.

Mr. Speaker, I urge the unanimous adoption of H.R. 7964.

The SPEAKER. The time of the gentleman from New Jersey has expired.

Mr. WALDIE. Mr. Speaker, I yield the gentleman 2 additional minutes.

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

Mr. DANIELS of New Jersey. I am pleased to yield to the gentleman from Iowa, the ranking minority member of the committee.

Mr. GROSS. I should like to commend the gentleman for the excellent job he and his subcommittee did in the last Congress, when he and his subcommittee secured the enactment of Public Law 91–93.

I would also like to ask the gentleman if it is not true that if the amendment to this bill is not passed the Postal Service will not be paying the true cost of future pay raises given to postal employees?

Mr. DANIELS of New Jersey. I would say the gentleman's observation is absolutely correct.

Mr. GROSS. Is it also not true, because of the specific wording of Public Law 91–93, that some interpretation could now be made that the future unfunded liabilities created by the Postal Service might not be paid at all?

Mr. DANIELS of New Jersey. I agree that such an interpretation could be made. The committee amendment, of course, is specifically designed to preclude such a possibility.

I want to compliment and congratulate the gentleman from Iowa for his good judgment in proposing the amendment to this bill.

Mr. GROSS. And I am sure the gentleman from New Jersey is fully aware of the bonuses which the Postmaster General intends to give to all postal employees in the headquarters and regions who retire between May 15 and June 16, and that these bonuses are in addition to the 4½-percent cost-of-living increase. Does the gentleman not agree if the Postal Service can find the money to pay these unwarranted and unearned bonuses that it can find the money to pay its own debts to the civil service retirement fund?

Mr. DANIELS of New Jersey. I do understand, from what I heard over the weekend, that the Postmaster General does propose to pay a half-year's salary to those employees who are involved in his reduction in force.

I wholeheartedly agree with the gentleman that provision should be made in this law that future unfunded liability should be paid by the Postal Service. Again I commend the gentleman for his foresight and good judgment in proposing the amendment which would make it specifically clear as to the liability of the new Postal Corporation.

Mr. GROSS. I thank the gentleman very much.

Mr. WALDIE. Mr. Speaker, I have no requests for additional time.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. BROYHILL).

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in support of H.R. 7964. I am one of the cosponsors of this legislation, and I was one of the original proponents of the purpose of the bill, having first introduced similar legislation in 1969.

I am speaking mainly, Mr. Speaker, about section 1 of the bill, which corrects a very serious inequity in existing law. It is a rather silly and ridiculous inequity.

When Congress first provided for automatic increases in civil service annuities whenever the cost of living, as determined by the nationwide Consumer Price Index, equals a rise of at least 3 percent over the index for the month on which the most recent increase was based, we overlooked an inequity we were creating which has adversely affected thousands of our retired civil servants since that year, 1965.

Under the automatic cost-of-living statute, increases were authorized in 1965, 1967, 1968, twice in 1969, and 1970. Another increase of 4.5 percent is scheduled for June of this year. But in order to be eligible for this coming increase, an employee must, under existing law, retire no later than May 31. Similarly, for the widow of an active employee to be entitled to the increase, her husband must die before June 1. For if an em-

ployee continues in Federal employment beyond May 31 and retired or dies thereafter, he or his widow will receive an annuity benefit smaller than they would have received before the May 31 increase.

The present law has proven injurious to both the Government and the retirees adversely affected. On each occasion when a cost-of-living adjustment has been triggered, many employees who planned to retire at an indefinite period within the next few months, have pushed their retirement date forward in order to obtain the additional benefits, causing a tremendous workload on the Civil Service Commission in processing retirements, serious delays in adjudication of annuity claims and commencement of benefit payments, and sudden loss in many agencies of too many valuable employees who decide to retire on short notice without completing projects on which they are working. I understand that during the 2 months period immediately prior to the August increase last year, there were 29,000 retirements as compared to an average 9 to 10,000 every 2 months.

If an employee, because of devotion to his Government and to the project on which he is working, chooses to remain to its completion, he not only loses the benefit of the cost-of-living adjustment initially, but it may be up to 10 months or more before his increased service and probably larger high 3-year average would offset the adjustment he has lost.

Mr. Speaker, I had hoped this legislation would reach the floor under a rule permitting amendments, as I have heard many expressions of concern from teachers in the District of Columbia who would like to have been included in its provisions. Were it possible for me to do so, I would have offered an amendment to include them, as they are particularly vulnerable to the provisions of the existing laws because their contracts terminate each June 30, making it necessary for them to either retire 1 month before the end of the school year or be penalized for not doing so. I am hopeful that our colleagues in the other body will have time to consider their plight, and will be able to include them along with our Federal employees in the provisions of this legislation.

Mr. Speaker, I believe this is a good bill, and long overdue. And I urge its enactment.

Mr. SCOTT. Mr. Speaker, I yield the gentleman from Iowa (Mr. GROSS) such time as he may consume.

Mr. GROSS. Mr. Speaker, I will take but little time on this bill. The bill and the committee amendment have been adequately explained and, as indicated, the amended bill was reported unanimously from our committee by a record vote of 19 yeas and no nays.

With respect to the committee amendment, I would like to simply observe that its intent is strictly in line with the general intent of the Postal Reorganization Act—that the Postal Service be self-sustaining. Certainly, it is entirely consistent with all of the numerous public statements made by the Postmaster General that the new Postal Service should not in any way be subsidized through the use of general funds of the Treasury. In fact, the limited public service and "revenue foregone" appropriations that were authorized in the legislation finally enacted were included over his strenuous objections. Therefore, it would seem to me that if the Postmaster General were to be entirely consistent, he would endorse the committee amendment instead of opposing it, which I understand he is now doing.

In this connection, I might also point out that there has been some speculation in the press and elsewhere that the committee amendment might delay the bill so that it cannot be enacted and become effective prior to the June 1 cost-of-living annuity increase. Since the Senate has already passed the bill, I see only one possible reason why this legislation cannot be enacted and sent to the President for his signature prior to June 1. That reason is the refusal of the Senate to accept the House amendment by reason of opposition to it by the Postmaster General.

I hope that such is not the case and that the Postmaster General will not now oppose the self-sustaining concept for the Postal Service that he so vigorously and consistently advocated over a period of nearly 2 years.

However, if by opposing the amendment and a conference is required with the Senate and if the legislation is delayed beyond June 1, then I think it is most appropriate that the blame be placed where it rightly belongs. The record is certainly clear that the House is acting promptly and responsibly.

Mr. BURKE of Florida. Mr. Speaker, I rise in support of H.R. 7964, to liberalize eligibility for cost-of-living increases in civil service retirement and survivor annuities.

The purpose of this legislation is to eliminate three circumstances which occur each time a cost-of-living adjustment is effected. They are:

First. The present provision produces the anomaly of an employee who retires soon after the effective date of an increase receiving less annuity than an employee, with the same service and high 3-year salary, who retired on or before the effective date, even though the employee who retired on or before the effective date has more service. A similar anomaly exists in computing a survivor's annuity.

Second. At present, each time a cost-of-living adjustment is effective a "bunching" of retirements occurs which affects the administration of the civil service retirement system. As an example, the last increase in August produced about 19,000 retirements in addition to the 5,000 or less that occur in a normal month. This poses a serious problem to the Commission because no matter how it prepares for this peak workload, work is disrupted and annuity checks are delayed.

Third. Also, agencies throughout the Government are adversely affected because too many employees who are working on important projects decide to retire. As a result, these employees are reemployed, if they are willing, as annuitants to finish their work.

Mr. Speaker, this is good legislation which will benefit the Federal employees and the Federal Government alike.

I urge its prompt approval.

Mr. SCOTT. Mr. Speaker, I have no further requests for time.

Mr. WALDIE. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. WALDIE) that the House suspend the rules and pass the bill H.R. 7964, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. WALDIE. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1681) to liberalize eligibility for cost-of-living increases in civil service retirement annuities.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill as follows:

S. 1681

An act to liberalize eligibility for cost-of-living increases in civil service retirement annuities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8340(c) of title 5, United States Code, is amended—

(1) by renumbering paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively; and

(2) by inserting immediately above paragraph (2) (renumbered as such by paragraph (1) of this section), the following new paragraph:

"(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

"(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

"(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.".

SEC. 2. The amendments made by this Act shall apply only with respect to annuities which have a commencing date after the effective date of the first annuity increase under section 8340(b) of title 5, United States Code, which occurs on or after the date of enactment of this Act.

AMENDMENT OFFERED BY MR. WALDIE

Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALDIE: Strike out all after the enacting clause of S. 1681

and insert in lieu thereof the provisions of H.R. 7964 as passed by the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7964) was laid on the table.

GENERAL LEAVE

Mr. WALDIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 7964 and to include extraneous matter in connection therewith.

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

There was no objection.

TO PROVIDE FOR A NATIONAL ENVIRONMENTAL DATA SYSTEM

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 56) to amend the National Environmental Policy Act of 1969, to provide for a national environmental data system, as amended.

The Clerk read as follows:

H.R. 56

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Environmental Policy Act of 1969 (Public Law 91-190) is amended by adding at the end thereof the following new title:

"TITLE III

"NATIONAL ENVIRONMENTAL DATA SYSTEM

"SEC. 301. This title may be cited as the 'National Environmental Data System Act'.

"SEC. 302. For the purpose of this title—

"(1) The term 'Data System' means the National Environmental Data System established by this title. The system shall include an appropriate network of new and existing information processing or computer facilities both private and public in various areas of the United States, which, through a system of interconnections, are in communication with a central facility for input, access, and general management. It shall also include all of the ancillary software and support services usually required for effective information system operation.

"(2) The term 'Council' means the Council on Environmental Quality established in title II of this Act.

"(3) The term 'environmental quality indicators' means quantifiable descriptors of environmental characteristics which will measure the quality of the environment.

"(4) The term 'information, knowledge, and data' shall be interpreted as including those facts which are significant, accurate, reliable, appropriate, and useful in decisionmaking in environmental affairs.

"SEC. 303. (a) There is hereby established a National Environmental Data System.

"(b) The purpose of the Data System is to serve as the central national coordinating facility for the selection, storage, analysis, retrieval, and dissemination of information, knowledge, and data relating to the environment so as to provide information needed to support environmental decisions in a timely manner and in a usable form. Such information as shall be deemed appropriate and useful for the achievement of the purpose of the system shall be made available by all Federal agencies, private institutions, universities, and colleges, State and local governments, individuals, and any other source of reliable information.

"(c) Information and data shall also be sought from international sources such as foreign governments, the United Nations, and other international institutions; and the President is encouraged to enter into such agreements as may be necessary to accomplish this purpose.

"SEC. 304. (a) The information, knowledge, and data in the Data System and the analysis thereof shall be made available on request without charge—

"(1) to the Congress and all the agencies of the legislative and executive branches of the Federal Government, and

"(2) to all States and political subdivisions thereof, except that, in any case where it is determined that the service requested is substantial, the payment of such fees and charges may be required as may be necessary to recover all, or any part, of the cost of providing such retrieval service.

"(b) The information, knowledge, and data in the Data System and the analysis thereof shall be made available to private persons and entities—

"(1) upon payment of reasonable fees and charges as may be established as necessary to recover the cost of providing such retrieval service; and

"(2) subject to such terms and conditions as is deemed necessary to protect the interests of the United States.

"(c) In all instances the Data System shall perform its functions so as to protect secret and national security information from unauthorized dissemination and application.

"SEC. 305. (a) There is hereby created the position of National Environmental Data System Director, who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The Director shall be a person who, as a result of his training, experience, and attainment, is exceptionally well qualified to analyze and interpret environmental data of all kinds and to appreciate its significance in the management of natural resources as required for the purpose of this Act. He shall serve full time and be compensated at the rate provided for level V of the Executive Schedule pay rates (5 U.S.C. 5313).

"(b) It shall be the function of the Director to—

"(1) administer and manage, under the guidance of the Council, the operations of the Data System in all of its ramifications,

"(2) institute a study to evaluate and monitor the state of the art of information technology and utilize to best advantage new and improved techniques for accomplishing the purposes of this Act,

"(3) utilize knowledge developed during such study to develop criteria and guidelines to govern the selection of data as to scope, scientific validity, quantity, and quality, to be incorporated into the National Environmental Data System network, including the development of predictive ecological models,

"(4) develop and implement a plan to establish and maintain the environmental information network anticipated to accomplish the purposes of this Act,

"(5) develop, establish, and maintain, as necessary, general standards which will permit and facilitate the compatibility and integration of existing and new information systems bearing on the environment to make them consonant and cooperative with the central facility established by this Act, and

"(6) develop and publish from time to time environmental quality indicators for all regions of the United States, including its coastal and contiguous zones, and for internationally significant environments such as the atmosphere and the oceans.

"(c) In carrying out his functions under this Act, the Director shall, to the fullest extent possible, provide the Council with statistical data and other information necessary for the preparation of the annual report of the Council required under section 201 of this Act, and in the development of long-range programs for the enhancement of the environment.

"SEC. 306. (a) The Director may employ such other officers and employees as may be necessary (1) for the efficient administration, operation, and maintenance of the Data System, and (2) to carry out his functions under this title.

"(b) The Director is authorized to provide such lawful incentives as may be required to achieve the purposes of this Act. These incentives may include, but shall not be limited to, grants of money, exchanges of information, sharing of facilities, specialized advice, programs and formats, and other like incentives. The Director shall also be authorized to enter into contracts with universities, individuals, and State and local governments, when needed, and to purchase information, data, and personal services as required to fulfill its purposes. He is also authorized to employ consultants as required.

"SEC. 307. (a) The head of each department, agency, or instrumentality in the executive branch of the United States Government shall make available to the Data System such information, knowledge, and data on the environment which such department, agency, or instrumentality may have as a result of its operations. Such information, knowledge, and data shall be made available for incorporation into the Data System, as the Director deems appropriate as soon as possible after it becomes known to such department, agency, or instrumentality.

"(b) In the administration of all Federal programs resulting in financial assistance to any cooperative international study or to any State, political subdivision, or other public or private entity, and, in all contracts in which the United States is a party, the head of the department, agency, or instrumentality administering such program, on entering into such contract, shall take such action as may be necessary to insure that information, knowledge, and data on the environment which either directly or indirectly results from such Federal financial assistance or contract will be made available to the Data System as soon as possible after it becomes known. In respect to federally assisted environmental programs conducted by foreign nations, it shall be the policy of the United States Government to encourage, to the fullest extent possible the availability to the Data System of such information, knowledge, and data arising from these programs which is appropriate to the purposes of the system.

"(c) The head of each department, agency, and instrumentality in the executive branch of the United States Government shall, to the fullest extent possible, permit the Data System Director to use, on a mutually agreeable basis, including the payment of compensation, personnel, facilities, computers, data processing, and other equipment within such department, agency, or instrumentality in carrying out its functions under this title; and, to the fullest extent possible, such computers, data processing, and other equipment shall be made compatible with all others in, and available for use by, the Data System.

"SEC. 308. There is authorized to be appropriated to carry out the provisions of this Act the sum not to exceed $1,000,000 for fiscal year 1972, $2,000,000 for fiscal year 1973, and $3,000,000 for fiscal year 1974."

The SPEAKER. Is a second demanded?

Mr. PELLY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

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

Mr. Speaker, we are currently in the midst of an environmental crisis. The world in which we live is being severely

altered by many of man's activities with little or no knowledge of the consequences. Government agencies at all levels, industrial and agricultural officials, and others whose decisions affect the environment are rightly expected by the public to manage the natural resources of this country for maximum productivity with minimum environmental degradation. But too often these decisionmakers do not have available to them adequate information and knowledge of consequences. At this time, as at no other time in history, there are numerous and diverse studies, programs, and projects generating data on the environment. A great source of information is already on record buried in file cabinets, in notebooks of individuals, in formal and informal reports and documents, and in computer systems available to very few. The potential for optimum environmental management will be greatly enhanced if a method is found to improve the flow, analysis and utilization of this enormous information base.

Mr. Speaker, the bill which we are considering today clearly expresses my conviction of the need for a national environmental data system which would make it possible for all legitimate claimants to obtain the information they need for a variety of objectives. The Federal Establishment is quite aware and concerned about the need for such a data system. In fact, many of the Federal agencies have already developed data systems handling environmental data. Outstanding systems now exist in the Departments of Agriculture, Commerce, Defense, Health, Education, and Welfare, and the National Aeronautics and Space Administration. In addition, two environmental data systems exist outside the Federal Government, one at the University of Illinois, which is concerned with an eight-county area surrounding Chicago, and the other in the State of Maine, which provides an automated information system for the effective management of its resources.

Mr. Speaker, these functioning State, local, and Federal programs have demonstrated the feasibility and value of instituting a broader environmental data system at the national level. Conversely, the evidence at the hearings held by my Subcommittee on Fisheries and Wildlife Conservation equally demonstrated the losses that the Nation would suffer if such a system is not established.

Mr. Speaker, in June of 1970 my subcommittee held 4 full days of hearings on legislation—substantially the same as the legislation we are considering today—receiving testimony from a wide range of witnesses including, among others, ecologists, scientists, conservationists, environmentalists, and representatives from States and Federal Governments. All of the witnesses testifying at the hearings strongly supported the concept and the objectives of the legislation. The only objections were voiced by governmental witnesses and they were directed to various portions and details of implementation of the bill.

Mr. Speaker, great care was taken by the Committee on Merchant Marine and Fisheries to make sure that all objections were thoroughly considered. The bill, H.R. 17436, as reported in the 91st Congress, was designed to meet those objections and included all amendments suggested by the agencies except the ones which suggested that the legislation was premature and that sufficient authority to carry out the legislation already existed in the Council on Environmental Quality. Yet the Council in its first annual report to the President in August of last year stressed the fact that insufficient environmental quality indicators or systems by which to monitor the environment with any degree of accuracy had caused its report to be incomplete and uneven in many respects. Similarly, in the introduction of the Council's report, the President stated that existing systems for measuring and monitoring environmental conditions and trends and for developing indicators of environmental quality are still inadequate.

Mr. Speaker, the legislation under consideration today, H.R. 56, is identical to H.R. 17436 of the 91st Congress except for the last provision of the bill, which has to do with the authorization of funds to carry out the legislation. In general, the various agencies in their reports on H.R. 56 either deferred to the agencies having a primary interest in the legislation or reiterated their position of the 91st Congress; that is, that the legislation was premature and should be postponed pending further study, and also that sufficient authority now exists to carry out the purpose of the legislation.

Mr. Speaker, after giving careful consideration to the evidence presented at the hearings in the 91st Congress, the agency reports of the 92d Congress and, in particular, the President's expression of the need for such a system, the Committee on Merchant Marine and Fisheries unanimously reported H.R. 56, with an amendment to provide for the establishment of a National Environmental Data System.

Mr. Speaker, briefly explained, the bill would amend the National Environmental Policy Act of 1969 to add a new title III to the act to be called the National Environmental Data System.

Section 302 of the bill would define certain terms used throughout the bill, such as "data system," "council," "environmental quality indicators," and "information, knowledge, and data."

The term "data system" shall be construed to include an appropriate network of new and existing information processing or computer facilities throughout the United States. The data system would be developed and established and consist of a central facility capable of interconnecting and communicating with other systems and equipment now or hereafter used by Federal and State agencies, private institutions, local governments, industries, and individuals.

The term "environmental quality indicators" would be intended to parallel the function, structure, and utility of the economic indicators monitored and published by the Joint Economic Committee. They would serve as the basic information on which determinations could be made on whether the environment is changing and at what rate. They also would indicate trends so that remedial action could be instituted in a timely fashion.

Section 303 would provide for the establishment of a National Environmental Data System. It would serve as the central national coordinating facility for the selection, storage, analysis, retrieval, and dissemination of environmental data made available to it by Federal agencies, State and local governments, individuals, and private institutions. Such data would be analyzed, interpreted, collated, and disseminated as broadly as possible in order to provide information needed to support environmental decisions in a timely manner and in a usable form.

Section 304 would provide that the information, knowledge, and data in the data system and the analysis thereof would be required to be made available without charge to the Congress and all the agencies of the legislative and executive branches of the Federal Government. Such information, knowledge, and data would also be made available without charge to all States and political subdivisions thereof except in those cases where the service requested is substantial, then, such local and State political subdivisions would be required to pay a reasonable retrieval fee for providing such service. In addition, such information, knowledge, and data would be made available to private persons and entities, but only upon the payment of a reasonable fee to cover such retrieval service, as may be determined by the Director.

Section 305 would provide for the creation of the position of National Environmental Data System Director. The Director would be required to be a person well qualified to interpret and analyze environmental data of all kinds. He would be required to serve full time and would be compensated at the rate provided for level V of the executive schedule pay rates.

The duties of the Director would be to:

First, administer and manage the operations of the data system under the guidance of the Council on Environmental Quality;

Second, institute a study to evaluate and monitor the state of the art of information technology and utilize new and improved techniques for accomplishing the purposes of the act;

Third, utilize knowledge developed during such study to develop criteria and guidelines to govern the selection of data, including the development of predictive ecological models;

Fourth, develop and implement a plan to establish and maintain an environmental information network;

Fifth, develop, establish, and maintain, as necessary, general standards which will permit and facilitate compatibility and integration of existing and new information systems;

Sixth, develop and publish from time to time environmental quality indicators.

Section 306 would authorize the Director to employ such officers and employees as may be necessary to carry out the pur-

poses of the act and would authorize the Director to provide such lawful incentives as may be required to achieve the purposes of the act, such as payment of grants, exchange of information, sharing of facilities, and other incentives.

Section 307 would require each department, agency, or instrumentality of the executive branch of the U.S. Government to make available to the data system all information, knowledge, and data as soon as possible after it becomes known for possible incorporation into the data system; it would require all Federal agencies providing financial assistance to take such steps as may be necessary to insure that environmental information, knowledge, or data resulting from such assistance will be made available to the data system as soon as possible after it becomes known; it would also require each department, agency, or instrumentality of the executive branch of the U.S. Government, to the fullest extent possible, to permit the Director, on a mutually agreeable basis, including the payment of compensation, to use personnel, facilities, data processing and other equipment in carrying out his functions under the act, and further, to the fullest extent possible, such computers, data processing, and other equipment would be required to be made compatible with all others in, and available for use by, the data system.

Mr. Speaker, section 308 of H.R. 56, as introduced, authorized to be appropriated not to exceed $1 million for fiscal year 1972, $3 million for fiscal year 1973, and $5 million for each fiscal thereafter. The committee felt that since a study would be carried out prior to the establishment of the data system and that optimum staffing for the operation and maintenance of such a system would not be needed until the system has been established, then it is likely that less funds would be needed during the first 3 years of the program. In view of this, your committee amended the bill to limit the program to a period of 3 years and reduced the maximum amount authorized to be appropriated for fiscal years 1973 and 1974 to $2 million and $3 million, respectively.

By limiting the legislation to a period of 3 years it will afford the committee an opportunity to have an overall review of the program at the end of that period and at the same time determine its effectiveness and future needs.

Mr. Speaker, H.R. 56 was unanimously reported by the Committee on Merchant Marine and Fisheries and I urge its prompt passage.

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

Mr. DINGELL. I would be glad to yield to my friend from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's statement. I have read every word of the report and the departmental reports and the bill, of course, as thoroughly as possible. However, I have not been privy to the hearings or what led up to the submission of H.R. 56 today. But is it not true that when this legislation previously passed the House it was prior to the organization and perfection, at least, of the Environmental Protection Agency?

Mr. DINGELL. No, I do not believe so. The bill passed the House last year on December 7, and the Environmental Protection Agency went into being on October 4.

Mr. HALL. The gentleman knows that, and I appreciate his comment, but by the time it had completed any part of its rather tedious recruiting program and established the Commission and objectives, and really got to rolling, we had then passed the other bill.

But be that at it may, does the Committee on Merchant Marine and Fisheries have oversight and surveillance and, indeed, jurisdiction over the EPA?

Mr. DINGELL. No. This legislation has nothing to do with the EPA except as it may come under the purview of the bill just as all other Federal agencies. This legislation has to do primarily with the Council on Environmental Quality. The National Environmental Policy Act is within the jurisdiction of the Committee on Merchant Marine and Fisheries, which established an agency within the Office of the President of the United States, the Council on Environmental Quality. This legislation would provide the one additional step which I think is so desperately needed if they are to carry on the functions they have been given of properly overseeing the information and knowledge on the environment and the retrieval and dissemination of this information, which is so vitally needed if sound environmental decisions are to be made.

Mr. HALL. The gentleman does not want to bandy words with his distinguished colleague from Michigan, but some of the old axioms such as things equal to the same thing being equal to each other still abide and are true. And I submit by the gentleman's own definition that there is definite duplication and overlapping, and I fear that out of this will come greater duplication in one of the most costly systems that we have today, storage and automatic retrieval, computers, memory machines, and so on.

This is not true only in this particular area, I will say to the distinguished gentleman from Michigan, but it is true throughout the departments, and it is also true in our own Chamber here, where our Committee on Administration has this very problem before it at this time.

Mr. DINGELL. I want to yield as graciously as I can to my good friend, the gentleman from Missouri, but I hope the gentleman will allow me the privilege of correcting the gentleman when he is in error.

The basic function of this legislation is to do away with waste, overlapping, and duplication, and to see to it the information derived by Federal expenditure for research on environmental matters is made quickly and readily available so we can halt the overlapping of research where we can, and as soon as we can. Then it would make the results readily available to us, so that the researchers can know what other researchers are doing, and thus eliminate many large numbers of research projects that are going forward now simply because no one knows whether that same kind of research is continuing in another location. Also it would make the data from research projects available to the agencies, both in terms of input and checking against the work product and input into other research programs. So the primary function of this legislation is to eliminate waste, overlapping, and duplication. It will not allow it, and it should prevent the creation of a whole new system of computers by simply systematizing the present Government use of computers, and to avoid the very kind of duplication, waste, and overlapping that my friend, the gentleman from Missouri, fears, and which fears I might say I also have had.

Mr. HALL. Mr. Speaker, if the gentleman will yield further, is there any plan in this data-gathering situation for the environmental data system to translate foreign reports within the computer, and transcripts?

Mr. DINGELL. They are directed to receive reports and environmental information and data, which are generated by research from overseas which is financed by the Federal Government. But those reports, and so forth, are presently received and then translated into English, and the only thing that this would do is to see that when it goes into a computer it is going in in a systemized fashion so that the information with regard to all projects also goes into our existing computer system, so that it may be practical for us to avoid the kind of waste and duplication that my friend, the gentleman from Missouri, has referred to.

Mr. HALL. Mr. Speaker, I will say to my friend, the gentleman from Michigan, that for his information there are many data-gathering systems that have the translating factor for up to 27 languages in order to consider technical and scientific reports in other areas before they are fed into the data machine.

I will say to the gentleman that I say that in the spirit of satire—we all know he and his committee one of all things, not pikers.

Mr. DINGELL. I will say that the function of this committee is to take large steps slowly and proceed rapidly on small steps and that is what we are doing now.

Mr. HALL. Mr. Speaker, will the gentleman tell us whether or not the director of the environmental protection agency has rendered a favorable report concerning this bill?

Mr. DINGELL. The committee has accepted each and every one of the recommendations of the agencies downtown with regard to the legislation before this body.

I would point out to you, the only request or recommendation of any agency we failed to accept was the one suggested by several agencies that we deferred pending further studies. We have been deferring on this legislation pending studies for better than 2 years now and the committee came to the conclusion that we have waited long enough for the agencies to come forward with the kind

of recommendation we think they should come forward with before we move.

Mr. HALL. Having asked the question and having heard the gentleman's statement, will the gentleman now answer the question—what is the position of the Environmental Protection Agency on this bill, H.R. 56?

I will read to my friend from the report. On page 46, it says:

The Environmental Protection Agency supports the intent of H.R. 56, to improve the management and use of environmental data and information; however, we believe it would be unnecessary to establish a specific organization for this purpose and to prescribe the procedures and functions which such an organization would follow.

The Environmental Protection Agency, through its Office of Research and Monitoring, is presently examining the data and information systems which were acquired with EPA's five constituent offices, the type of data now being collected, and the information on environmental conditions necessary to carry out EPA's mission, with a view toward consolidating and refining an integrated system for obtaining, storing, and retrieving such data and information.

I would tell my friend, the gentleman from Missouri, this further——

Mr. HALL. Do not tell me any more—that is all I wanted to know.

Mr. DINGELL. I have the floor and I am glad to tell the gentleman from Missouri.

Mr. HALL. I thank the gentleman.

Mr. DINGELL. In addition to that, I would point out to my friend, the gentleman from Missouri, for his benefit, that the only thing this legislation does is not to add anything to what the environmental protection agency does—except to see to it that the environmental protection agency endeavors in this area are interrelated in a coordinated effort to translate back and forth with other systems by the Department of Interior and the Department of Commerce and other agencies which happen to have environmental systems.

I will point out that I am going to insert in the RECORD also for the benefit of my friend, the gentleman from Missouri, a letter dated May 4, 1971, from me as chairman of the subcommittee, requesting information as to on-going studies and to which I have just alluded be made available to the committee. I would point out that these studies have not yet been made available despite the fact that the committee requested this information more than 2 weeks ago.

The letters follows:

MAY 4, 1971

Mr. WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. RUCKELSHAUS: As I am sure you are aware, on February 1, 1971, our Committee on Merchant Marine and Fisheries asked for your agency to comment on my bill H.R. 56, to provide for the establishment of a National Environmental Data System.

Although the Committee has not received a report from your agency on this legislation as of this date, it has been called to the attention of the Committee in a report issued by the Office of Science and Technology that your agency has undertaken a study to obtain the requisite information needed to achieve the goals set out in H.R. 56.

As Chairman of the Subcommittee on Fisheries and Wildlife Conservation, I have been instructed by the Subcommittee members in executive session to obtain the following information on the study referred to in this report:

When was the study initiated?

When did you anticipate the study would be completed?

When do you now expect the study to be completed and available for distribution?

In case you may not be aware of it, on April 22, 1971, my Subcommittee on Fisheries and Wildlife Conservation ordered reported to the full Committee H.R. 56, as introduced. I anticipate Chairman Garmatz will schedule the legislation for consideration in executive session before the full Committee early next week. In view of this, I would appreciate your immediate reply to the above questions.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation.

The SPEAKER. The Chair recognizes the gentleman from Washington (Mr. PELLY).

Mr. PELLY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise to strongly support H.R. 56 for the establishment of a National Environmental Data System.

On December 7, 1970, in the last Congress, we passed this bill on a voice vote under suspension of the rules. Due to the lateness of the session and the backlog in the other body, the bill was not considered and accordingly died in the 91st Congress. The bill currently under consideration is the same as previously passed by this body.

Your committee has held extensive hearings on the merits of this bill, and all of our Federal agencies supported the concepts embodied in the bill and recognized the need of the Federal Government in having readily available data and other information on our environment. Comments of the Federal agencies on H.R. 56 were basically the same as those presented in the 91st Congress.

The need for this system is readily apparent, as evidenced by the comments of Mr. Russell Train, chairman of the Council on Environmental Quality, on March 5, 1970, before your committee's Subcommittee on Fisheries and Wildlife Conservation.

Mr. Train stated:

The identification and measurement of environmental trends would seem to require the establishment of data baselines in atmospheric, terrestrial, aquatic and marine environments, among others. Much of this fundamental data is not presently available at all, nor are the systems for its measurement. It will be necessary to develop systems, some of which will be international in nature as in the case of atmospheric data. Wherever possible, agencies with direct program responsibilities will be encouraged to undertake the necessary tasks. Finally assuming that effective systems are established for procuring and measuring needed information, the Council will have the ultimate responsibility of synthesizing and interpreting this data so as to be useful in policymaking and decisionmaking.

President Nixon also has spoken of the need to establish an environmental early-warning system. Chairman Train has commented that we must undertake advance planning to meet critical problems which may still lie below the horizon of public awareness.

Since these comments last year, the need for a system to effectively collate, correlate, and disseminate environmental data and information to our concerned Federal agencies, local and State governments, and private citizens has increased in light of the ever-growing commitment of Congress and the Nation toward the worthy goal of a clean and wholesome environment. The tremendous amount of data required to fully evaluate agency and industry actions under the requirements of the National Environmental Quality Act of 1969 should be readily available for analysis and evaluation. Passage of this bill will provide this means and insure that all available scientific technical information on and affecting our environment can be quickly located, assimilated, and evaluated by responsible parties.

Mr. Speaker, the purpose of H.R. 56 is to establish within the executive branch under the auspices of the Council on Environmental Quality, the basic framework for the future accomplishment of the environmental forecasting and monitoring program outlined by Chairman Train. I stress the word future, Mr. Speaker, because we do not expect that this system can be created overnight. We are starting today from a position of relative ignorance in terms of monitoring the state of the environment and formulating baselines from which to measure the quality of our environment. We do not know precisely what data should be collected and preserved. Quite clearly, however, it is essential that a start be made toward the establishment of this environmental data system. The legislation now under consideration recognizes that we are only at the threshold of devising an effective environmental prediction system.

As reported by your Committee on Merchant Marine and Fisheries, section 350(b) of the legislation provides that the director of the data system shall institute a study to evaluate and monitor the state of the art of information technology. He shall utilize the knowledge developed during this study to develop the criteria and guidelines necessary to govern the selection of basic environmental data for incorporation into the data system network.

Our national concern for preservation of the environment is in its infancy. Similarly, our knowledge is at a very primitive level. The national concern for the environment is not, I believe, a transistory phenomena soon to be eclipsed by another fad. Concern for the quality of our environment is firmly embedded in the declarations of policy of the National Environmental Policy Act of 1969, wherein it is stated:

The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

The enactment of H.R. 56 will be a positive step toward the fulfillment of this national policy by starting in motion the development of an effective environmental data system. For these reasons, Mr. Speaker, I support this legislation and urge that it pass.

Mr. DINGELL. Mr. Speaker, I yield to the gentleman from Maryland (Mr. GARMATZ), our distinguished chairman.

Mr. GARMATZ. Mr. Speaker, our national efforts to take positive steps to preserve, protect, and improve our environment are seriously impeded by a lack of essential information needed to make environmental decision—especially of a long-range nature. This legislation, H.R. 56, which would establish a National Environmental Data System, is designed to correct that glaring deficiency.

Those people—especially high-echelon Government officials—who are charged with the responsibility to make decisions on projects which might affect the quality of our environment have no central source from which to draw their information. Some Government agencies do already have their own systems for environmental data. Unfortunately, each of these systems are separate entities—they are not interchangeable or integrated. Similiar private systems, especially those of universities and scientific organizations, are also monolithic in nature. The fact that this great storehouse of knowledge and information is not available from one source represents a tragic waste.

Other responsible people on a State and local level are also faced with making decisions of great importance to our environment. Many of these people, almost daily, are confronted with an urgent need for information in a usable form. The system proposed by this legislation would take all the information developed and collected independently by all these various agencies and institutions, and make it available in a practical and expeditious manner. This system would be accessible to all Federal, State, and local agencies, as well as to universities and the private sector—including such important segments as the agriculture, construction, and transportation industries.

Without such a system, this Nation—despite its great technological know-how—will be forced to cope with massive environmental problems on a crisis-by-crisis basis. If we are to build a better America, this data system is one of the most essential tools for achieving that goal.

Mr. Speaker, my committee unanimously reported this important legislation, and I urge its prompt passage.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in support of H.R. 56, to provide for a national environmental data system which would serve as the central national facility for the selection, storage, analysis, retrieval, and dissemination of information, knowledge, and data relating to the environment.

One problem that plagued our environmental programs for years was management and overlapping responsibility. We established many agencies and subagencies to examine and identify environmental problems, but only last year did we move toward focusing them into a logical direction to supervise the regulatory laws, the research and the funds we had voted to improve our environment, first with the creation of the Environmental Protection Agency by the President, and by Congress' enactment of the National Environmental Policy Act and creation of the Council on Environmental Quality.

I believe creation of the National Environmental Data System will be another major step in the direction of centralization of these programs. It has been necessary in the past for governmental agencies as well as industries and private citizens to seek information in any number of departments concerning the effect their activities might have on the environment. Often the information could not be readily obtained, and actions were taken without regard to their potential damage. Today, with countless studies, programs and projects generating information, and a great deal of information already on record in the various agencies absorbed by the EPA, and in the Department of Housing and Urban Renewal and the Farmers Home Administration, both of which still operate separate pollution control programs, I believe it is essential that a central source of information be available to all who seek it for whatever reason.

Mr. Speaker, I believe this is a good bill and sorely needed. I urge its passage.

Mr. VANIK. Mr. Speaker, as a cosponsor of H.R. 56. I rise in support of this legislation. This bill will provide for a central, national facility for the selection, storage, analysis, retrieval, and dissemination of data relating to the environment.

As the amount of information about the environment and dangers to the environment continues to mushroom, it is imperative that we have a place where this valuable information can be stored for use and coordinated. Presently, someone needing information about environmental problems must consult dozens and even hundreds of different sources. The Data System will provide a single source of needed information. We will only be able to manage our environment if we have the necessary data on hand, readily available to our Nation's decisionmakers.

The center will also undertake the development of predictive ecological models through which the consequences of public and private actions in construction, public projects, urban growth and plant location can be determined before new projects and programs are started. There is some continuing discussion in my community about a jetport in Lake Erie. Such a project raises a number of environmental questions which must be answered before such a project is commenced. The Data Center can help in this role. There is also some thought that islands in the lake—properly placed—could help create currents in the western basin of Lake Erie which would help improve the lake through a flushing action. We simply do not know enough about the lake and all its environmental factors to approve or disapprove such a plan—but the Data Center could help us get the information which we need.

In addition, the full collecton of data available to all the Nation's environmental specialists may help us to be aware of environmental dangers before they become crises—such as almost happened in the replacement of phosphates in detergents with NTA.

For these reasons, I urge the passage of this bill.

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 56, a bill to amend the National Environmental Policy Act of 1969, to provide for a National Environmental Data System.

As a cosponsor of this legislation, I am particularly pleased that the House can consider this landmark legislation in the early stages of the 92d Congress and I would hope that when this bill is passed, and I have every reason to believe it will pass, that the Senate would move promptly to pass it as well. I cosponsored H.R. 17436 in the 91st Congress but it failed passage in the Senate, primarily due to the little time remaining in the 91st Congress for consideration.

This legislation is the culmination of extensive hearings in 1970 and earlier this year which delved into the weaknesses and absences in our present efforts to effectively monitor environmental quality with accuracy.

It has the support of the Council on Environmental Quality and all Federal departments and agencies, as well as public witnesses supported the concept and objectives of this legislation.

I urge the House to pass H.R. 56.

The SPEAKER. The question is on the motion of the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 56, as amended.

The question was taken.

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 305, nays 18, not voting 109, as follows:

[Roll No. 93]

YEAS—305

Abbitt	Buchanan	Devine
Abernethy	Burke, Fla.	Dingell
Abourezk	Burke, Mass.	Donohue
Abzug	Burleson, Tex.	Dorn
Adams	Burlison, Mo.	Downing
Addabbo	Burton	Drinan
Alexander	Byron	Dulski
Anderson, Ill.	Caffery	Duncan
Andrews, Ala.	Camp	du Pont
Annunzio	Carey, N.Y.	Dwyer
Archer	Carney	Eckhardt
Arends	Carter	Edmondson
Ashley	Casey, Tex.	Edwards, Calif.
Aspinall	Cederberg	Esch
Baker	Celler	Eshleman
Baring	Chamberlain	Evans, Colo.
Begich	Chappell	Fascell
Belcher	Clancy	Fisher
Bell	Clausen,	Flowers
Bennett	Don H.	Flynt
Bergland	Clawson, Del	Ford, Gerald R.
Betts	Cleveland	Ford,
Bevill	Collins, Tex.	William D.
Biester	Conable	Forsythe
Bingham	Conte	Fountain
Blanton	Conyers	Fraser
Blatnik	Culver	Frelinghuysen
Boggs	Daniel, Va.	Frenzel
Boland	Daniels, N.J.	Frey
Bolling	Danielson	Fulton, Pa.
Bow	Davis, Ga.	Fuqua
Brasco	Davis, S.C.	Gallagher
Bray	Davis, Wis.	Garmatz
Brinkley	de la Garza	Giaimo
Brotzman	Dellenback	Gibbons
Brown, Mich.	Denholm	Gonzalez
Brown, Ohio	Dennis	Goodling
Broyhill, Va.	Derwinski	Gray

Griffin	McKinney	Rostenkowski
Griffiths	McMillan	Roush
Grover	Madden	Roybal
Gubser	Mahon	Ruth
Gude	Mailliard	Ryan
Hagan	Mann	St Germain
Haley	Martin	Sandman
Halpern	Matsunaga	Sarbanes
Hamilton	Mayne	Satterfield
Hammer-schmidt	Mazzoli	Saylor
	Meeds	Schwengel
Hanley	Melcher	Scott
Hansen, Wash.	Metcalfe	Seiberling
Harrington	Michel	Shipley
Harsha	Mikva	Shriver
Harvey	Miller, Ohio	Sikes
Hastings	Mills	Sisk
Hathaway	Minish	Skubitz
Hawkins	Mink	Smith, Calif.
Hays	Minshall	Smith, Iowa
Hébert	Mitchell	Snyder
Hechler, W. Va.	Mollohan	Springer
Helstoski	Monagan	Stafford
Henderson	Moorhead	Staggers
Hicks, Mass.	Morse	Stanton,
Hicks, Wash.	Mosher	J. William
Hogan	Moss	Stanton,
Hosmer	Murphy, N.Y.	James V.
Howard	Myers	Steed
Hull	Natcher	Steiger, Wis.
Hungate	Nedzi	Stokes
Hunt	Nelsen	Stubblefield
Hutchinson	Nichols	Talcott
Ichord	Obey	Taylor
Jacobs	O'Konski	Teague, Calif.
Jarman	O'Neill	Teague, Tex.
Johnson, Calif.	Patten	Thompson, Ga.
Johnson, Pa.	Pelly	Thomson, Wis.
Jones, Ala.	Pepper	Thone
Jones, N.C.	Perkins	Tiernan
Jones, Tenn.	Pettis	Ullman
Karth	Peyser	Van Deerlin
Kastenmeier	Pickle	Vanik
Kazen	Pike	Veysey
Keating	Pirnie	Vigorito
Kee	Poage	Waggonner
Keith	Poff	Waldie
King	Preyer, N.C.	Wampler
Koch	Price, Tex.	Ware
Kyros	Pucinski	Watts
Landrum	Purcell	Whalen
Latta	Quie	White
Leggett	Quillen	Whitehurst
Lennon	Rees	Whitten
Lent	Reid, Ill.	Williams
Link	Reid, N.Y.	Wilson, Bob
Lloyd	Reuss	Wilson,
Long, Md.	Rhodes	Charles H.
McClure	Riegle	Wolff
McCollister	Roberts	Wright
McCormack	Robinson, Va.	Wylie
McDade	Rodino	Wyman
McDonald, Mich.	Roe	Yates
	Rogers	Young, Tex.
McFall	Roncalio	Zion
McKay	Rosenthal	Zwach

NAYS—18

Collier	Mizell	Sebelius
Edwards, Ala.	Montgomery	Shoup
Gross	Passman	Smith, N.Y.
Hall	Powell	Spence
Landgrebe	Scherle	Steiger, Ariz.
Mathis, Ga.	Schmitz	Terry

NOT VOTING—109

Anderson, Calif.	Dent	Kuykendall
	Dickinson	Kyl
Anderson, Tenn.	Diggs	Long, La.
	Dow	Lujan
Andrews, N. Dak.	Dowdy	McClory
	Edwards, La.	McCloskey
Ashbrook	Eilberg	McCulloch
Aspin	Erlenborn	McEwen
Badillo	Evins, Tenn.	McKevitt
Barrett	Findley	Macdonald, Mass.
Biaggi	Fish	
Blackburn	Flood	Mathias, Calif.
Brademas	Foley	Miller, Calif.
Brooks	Fulton, Tenn.	Morgan
Broomfield	Galifianakis	Murphy, Ill.
Broyhill, N.C.	Gaydos	Nix
Byrne, Pa.	Gettys	O'Hara
Byrnes, Wis.	Goldwater	Patman
Cabell	Grasso	Podell
Chisholm	Green, Oreg.	Price, Ill.
Clark	Green, Pa.	Pryor, Ark.
Clay	Hanna	Railsback
Collins, Ill.	Hansen, Idaho	Randall
Colmer	Heckler, Mass.	Rangel
Corman	Hillis	Rarick
Cotter	Holifield	Robison, N.Y.
Coughlin	Horton	Rooney, N.Y.
Crane	Jonas	Rooney, Pa.
Delaney	Kemp	Rousselot
Dellums	Kluczynski	Roy
Runnels	Stuckey	Wiggins
Ruppe	Sullivan	Winn
Scheuer	Symington	Wyatt
Schneebeli	Thompson, N.J.	Wydler
Slack	Udall	Yatron
Steele	Vander Jagt	Young, Fla.
Stephens	Whalley	Zablocki
Stratton	Widnall	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Widnall.

Mr. Miller of California with Mr. Goldwater.

Mr. Zablocki with Mr. Andrews of North Dakota.

Mr. Anderson of Tennessee with Mr. Railsback.

Mr. Barrett with Mr. Robison of New York.

Mr. Byrne of Pennsylvania with Mr. Byrnes of Wisconsin.

Mr. Eilberg with Mr. Broomfield.

Mr. Green of Pennsylvania with Mr. Whalley.

Mr. Rooney of New York with Mr. Wydler.

Mr. Runnels with Mr. Steele.

Mrs. Grasso with Mr. Schneebeli.

Mr. Evins of Tennessee with Mr. Erlenborn.

Mr. Macdonald of Massachusetts with Mrs. Heckler of Massachusetts.

Mrs. Sullivan with Mr. Young of Florida.

Mr. Yatron with Mr. Crane.

Mr. Brooks with Mr. Ashbrook.

Mrs. Chisholm with Mr. Roy.

Mr. Podell with Mr. Dellums.

Mr. Murphy of Illinois with Mr. Rangel.

Mr. Cabell with Mr. Kyl.

Mr. Brademas with Mr. Fish.

Mr. Holifield with Mr. Mathias.

Mr. Udall with Mr. Vander Jagt.

Mr. Colmer with Mr. Dickinson.

Mr. Cotter with Mr. Wiggins.

Mr. Delaney with Mr. Horton.

Mr. Dow with Mr. Collins of Illinois.

Mr. Edwards of Louisiana with Mr. Broyhill of North Carolina.

Mr. Flood with Mr. McKevitt.

Mr. Foley with Mr. Nix.

Mr. Rooney of Pennsylvania with Mr. Diggs.

Mr. Symington with Mr. Badillo.

Mr. Hanna with Mr. Coughlin.

Mr. Biaggi with Mr. Kemp.

Mr. Anderson of California with Mr. McClory.

Mr. Gaydos with Mr. Blackburn.

Mr. Aspin with Mr. Hillis.

Mr. Randall with Mr. Lujan.

Mr. Kluczynski with Mr. Ruppe.

Mr. O'Hara with Mr. Wyatt.

Mr. Slack with Mr. Hansen of Idaho.

Mrs. Green of Oregon with Mr. Findley.

Mr. Price of Illinois with Mr. Winn.

Mr. Pryor of Arkansas with Mr. Rousselot.

Mr. Dent with Mr. McEwen.

Mr. Morgan with Mr. Kuykendall.

Mr. Fulton of Tennessee with Mr. McCloskey.

Mr. Galifianakis with Mr. Jonas.

Mr. Rarick with Mr. Scheuer.

Mr. Long of Louisiana with Mr. Stephens.

Mr. Clark with Mr. Corman.

Mr. Dowdy with Mr. Gettys.

Mr. Patman with Mr. Stuckey.

Mr. DENHOLM changed his vote from "nay" to "yea."

Mr. COLLIER and Mr. SMITH of New York changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROONEY of New York. Mr. Speaker, on rollcall No. 93, the vote on the bill H.R. 56, to provide for a national environmental data system, called a few minutes ago, I was unfortunately absent, being busy in another part of the Capitol. Had I been present I would have voted "yea."

SHOOTING ANIMALS FROM AIRCRAFT

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5060) to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft, as amended.

The Clerk read as follows:

H.R. 5060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fish and Wildlife Act of 1956 is amended by adding at the end thereof the following new section:

"SEC. 13. (a) Any person who—

"(1) while airborne in an aircraft shoots or attempts to shoot for the purpose of capturing or killing any bird, fish, or other animal; or

"(2) uses an aircraft to harass any bird, fish, or other animal; or

"(3) knowingly participates in using an aircraft for any purpose referred to in paragraph (1) or (2);

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b)(1) This section shall not apply to any person if such person is employed by, or is an authorized agent of or is operating under a license or permit of, any State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

"(2) In any case in which a State, or any agency thereof, issues a permit referred to in paragraph (1) of this subsection, it shall file with the Secretary of the Interior an annual report containing such information as the Secretary shall prescribe, including but not limited to—

"(A) the name and address of each person to whom a permit was issued;

"(B) a description of the animals authorized to be taken thereunder, the number of animals authorized to be taken, and a description of the area from which the animals are authorized to be taken; and

"(C) the reason for issuing the permit.

"(c) As used in this section, the term 'aircraft' means any contrivance used for flight in the air.".

SEC. 2. (a) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended by inserting "(a)" immediately after "SEC. 609." and by adding at the end thereof the following new subsection:

"VIOLATION OF CERTAIN LAWS

"(b) The Administrator, in his discretion, may issue an order amending, modifying, suspending, or revoking any airman certificate upon conviction of the holder of such certificate of any violation of subsection (a) of section 13 of the Fish and Wildlife Act of 1956, regarding the use or operation of an aircraft.".

(b)(1) Immediately after the section heading of such section 609, insert the following:

"PROCEDURE"

(2) That portion of the table of contents contained in the first section of the Federal

Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certification."

is amended by adding the following:

"(a) Procedure.

"(b) Violation of certain laws.".

SEC. 3. The amendments made by the first section of this Act shall take effect as of the thirtieth day after the date of enactment of such section; except that, in any case in which a State is not authorized to issue any permit referred to in the amendments made by such first section, such amendments shall take effect in any such State as of the thirtieth day after the expiration of the next regular session of the legislature of such State which begins on or after the date of enactment of this Act.

The SPEAKER. Is a second demanded?

Mr. PELLY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, in November of 1969, the NBC television network showed a documentary film entitled "The Wolf Men." Several scenes from the film depicted the hunting of wolves from aircraft and presented an interesting account of the status of the North American wolf. The film generated a deluge of mail from concerned citizens in support of legislation that would prohibit hunting of fish and wildlife from aircraft.

Mr. Speaker, it so happens that there are two species of wolves in the United States listed by the Department of the Interior as threatened with extinction. They are the eastern wolf and the Texas red wolf. To make matters worse, the red wolf has been thought to be more numerous than it is because of its close resemblance to the coyote, a predator. Because of this close resemblance and because of the increased use of aircraft for the hunting of wolves, the latest count of all species of wolves on the North American Continent has declined to a low of about 5,400, of which approximately 5,000 are found in Alaska, 300 in Minnesota, and 100 scattered throughout the other 48 States.

Mr. Speaker, many States have already tackled this problem by enacting legislation to regulate the use of hunting from aircraft. In this regard, all States now prohibit the shooting of game animals from airplanes and 35 of these States have extended their prohibition to include nongame animals as well.

The bill we are considering today, H.R. 5060, would supplement State law in this regard and not only is it designed to put an end to the hunting of wolves from aircraft, but it would also make it unlawful for those so-called sportsmen to hunt any species of bird, fish, or other animal from aircraft.

Mr. Speaker, I might point out at this time that the legislation under consideration today is substantially the same as H.R. 15188 of the 91st Congress, which passed the House on December 7, 1970, under suspension of the rules by voice vote but failed to pass in the Senate.

Mr. Speaker, briefly explained, section 1 of the bill would make it unlawful for anyone while airborne in an aircraft to shoot or attempt to shoot for the purpose of capturing or killing any bird, fish, or other animal or to use such aircraft to harass any bird, fish, or other animal. In addition, it would be unlawful for anyone to knowingly participate in using an aircraft for such purposes.

Violators would be subject to a fine of $5,000 or 1 year imprisonment, or both. However, the prohibition would not be applicable to any person carrying out duties to administer or aid in the administration and protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, if such person is an employee, authorized agent, or operating under license or permit of any State or the United States.

Section 1 of H.R. 5060 also contains a reporting requirement, which was not included in H.R. 15188, of the 91st Congress. This provision constitutes the main difference between the two bills. Simply stated, this provision would require any State that issued a permit to anyone for the purpose of taking animals from an aircraft to file an annual report with the Secretary of the Interior. Required to be included in this report, would be the named and address of each person to whom a permit was issued, description and number of animals authorized to be taken, description of the area from which the animal is to be taken, and the reason for issuing such permit.

Section 2 of the bill would amend the Federal Aviation Act of 1958 to authorize the Federal Aviation Administrator to issue an order amending, modifying, suspending, or revoking any airman certificate upon the conviction of the holder of such certificate of any violation enumerated in section 1 of the bill, regarding the use or operation of an aircraft. Incidentally, the term "aircraft" would include any contrivance used for flight in the air such as, but not limited to, airplanes and helicopters.

Section 3 of the bill would provide that the effective date of the legislation would be 30 days after its enactment, except with respect to those States that do not have authority to issue permits referred to in section 1 of the bill. In regard to those States, the legislation would not take effect until 30 days after the expiration of the next regular session of the legislature of that State which begins after the date of enactment of this legislation.

Mr. Speaker, I sincerely feel that the best way to put an end to this unsportsmanlike conduct of hunting from aircraft is to get at the pilot of the aircraft and the legislation under consideration today, H.R. 5060, is the best means to accomplish this purpose. Naturally, it is going to take the cooperation of the Justice Department to achieve this goal and as pointed out in the committee report on this legislation, we expect the Department of Justice to be most vigorous in its enforcement of this legislation.

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

Mr. DINGELL. I am glad to yield to my friend from Iowa.

Mr. GROSS. I thank the gentleman for yielding. I am curious to know what kind of fish can be shot from an aircraft.

Mr. DINGELL. Unfortunately, the draftsmen of this bill, in seeking to be all-inclusive and to control all actions involving harassment of fish, birds and animals, simply went through the whole spectrum of animals, since there is a possibility of marine animals and things of that kind being hunted or shot at from aircraft.

Mr. GROSS. I just wondered if the aircraft had to be in the water, or whether the shooting was from the air?

Mr. DINGELL. I must say to my good friend, we probably could have had that particular part of the legislation better drafted. I was afraid someone would ask that question.

Mr. GROSS. I thank the gentleman.

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

Mr. DINGELL. I yield to my colleague and friend from New York, Mr. GROVER.

Mr. GROVER. The gentleman from Michigan, as a member of the Committee on Merchant Marine and Fisheries, always has been in the forefront of the fight for the protection of wildlife.

Certain other committees have jurisdiction in this field; for example, there is jurisdiction over the wild mustang, which is a problem at this time, as well as over certain sea-going mammals threatened with extinction.

We have a lot of endangered species under the jurisdiction of the Merchant Marine and Fisheries Committee. In a way, I wish they all were, considering the leadership the gentleman has shown in our committee and the leadership the committee itself has shown in this area, for it might spark a little action in some of the other committees, for bringing about more protection for the endangered species.

Mr. DINGELL. I thank my good friend from New York.

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

Mr. DINGELL. I yield now to my friend from Texas, Mr. FISHER.

Mr. FISHER. Mr. Speaker, I would like to ask the chairman of the subcommittee, the distinguished gentleman from Michigan, about his interpretation of subsection (b) of section 13, as it appears on page 4 of the bill, a section just read a few minutes ago.

I am particularly interested in the provision contained in that section which purports to protect the right of people to protect their domesticated livestock.

In other words, in many areas of the country, particularly really rough country where sheep and goats are taken care of, the ranchmen, the owners of the livestock, sometimes encounter great difficulty in preventing the extinction of their herds by predatory animals unless they are able to use airplanes.

As I understood the gentleman's explanation a moment ago, the intent of this section is to protect the right of a landowner or a livestock owner to destroy predatory animals when it is necessary in order to protect those animals.

Mr. DINGELL. If the gentleman will permit, I would respond to the question by stating that page 5 of the report indicates the intention of the language as set forth in the bill. It says:

However, your committee was concerned that there should be language in the re-

port to make it clear that ranchers in using aircraft to carry out general management operations would not be in violation of the act. In this regard, your committee amended the bill to provide that the prohibition in subsection (a) would not include livestock or domesticated animals nor is it the intention of your committee to prevent ranch operators or their agents from using aircraft in ranch management operations, except when such aerial operations may affect wild animals as specified elsewhere in the act.

Mr. FISHER. In other words, as I understand it, the ranchman who got a permit from the proper State agency, as so provided in the bill, would be free to protect his livestock against predatory animals by the use of aircraft?

Mr. DINGELL. The gentleman is correct, within the bounds of the permit and subject to the reporting requirements as stated elsewhere in the bill.

Mr. FISHER. We understand that.

If the gentleman will yield me a little time in a moment, I should like to comment on the constitutionality aspects, very briefly.

Mr. DINGELL. For that purpose, Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. FISHER.

Mr. FISHER. Mr. Speaker, I support the objectives of this bill. That is, I am opposed to the use of airplanes from which to shoot game animals when that is done for sport. Very few people would take a contrary position. There is, however, a question of necessity for Federal intervention in this area, and a very serious question of constitutionality of the legislation that is proposed.

In view of these objectional features, which are well documented, it becomes an emotional issue which will cause many Members to vote in the affirmative for the same motives which would prompt them to vote for motherhood and against sin. This attitude is understandable.

I emphasize that for the reasons I have stated, the Department of Agriculture is opposed to the bill. The Department of the Interior is opposed to it. And the Department of Justice is opposed to it.

Let me now refer briefly to these departmental reports.

The Department of the Interior, in its report to the committee opposing the measure, stated:

> While in agreement with the basic objective of this legislation, we are concerned, first, that Federal regulation such as that anticipated by H.R. 5060 would be deemed an interference with States rights to regulate the taking of resident species . . . It is generally accepted that a State's jurisdiction is derived from its police power and status as sovereign. Fish and game, including migratory birds, may not be taken except in full compliance with State law and regulation.

That Department, which would administer this proposal if enacted into law, also stated:

> This Department believes that the killing of wild animals for sport from aircraft should be prohibited on Federal, State, and private lands. It is our opinion that this objective can best be attained, and the question of jurisdiction most easily resolved, by the enactment of uniform State laws.

The Department of Agriculture follows this reasoning. In its report is found the following:

> All States now prohibit the shooting of game animals from aircraft, and many States include nongame animals also. State laws on these matters generally apply to the national forest and other lands administered by this Department . . .
>
> While we fully appreciate the need for control of shooting from aircraft, we believe it could be better achieved by the enactment of uniform State laws. This would avoid disruption of the authority and established procedures of the many States who already effectively prohibit the shooting of both game and nongame species from aircraft. This is in accord with this Department's longtime view that the States have the general responsibility to protect, regulate and control wildlife and fish.

The Office of the Attorney General insists this bill is unconstitutional, and explains its reasoning in detail. Its report concludes as follows:

> The Department of Justice recommends against enactment of this legislation.

Mr. Speaker, I do not care to pursue the subject. The issue is obviously an emotional one for reasons which are generally popular, and I assume most of the Members will vote accordingly. I thought it appropriate, however, to make plain that this legislation is an invasion of traditional States rights in the area covered. In my judgment it is in the public interest that it be kept that way.

Personally I believe, from what I know about constitutional law, although I do not pose as any expert on the subject, that the Attorney General's views are well founded that this does constitute an invasion by the Federal Government of a State responsibility.

The SPEAKER. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. FISHER. It has always been treated in that way. I think it is a violation of the Constitution, and the Attorney General of the United States is of the same opinion.

Now, again, I was very grateful to the committee for the amendment that was written in response to the objections that some of us raised. In that respect we are well pleased with the amendment that was adopted for protecting the rights of land owners to protect their livestock. However, I still have these reservations about the propriety of federal intervention in this area and also the question of its constitutionality.

Therefore, while I do not care about a rollcall vote on this measure myself, I shall personally vote against the enactment of the bill.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, will the gentleman yield for a question?

Mr. DINGELL. I yield to the gentleman from Pennsylvania for a question.

Mr. JOHNSON of Pennsylvania. This is my question. I notice the bill says that it shall be unlawful to use an aircraft to harass any bird, fish, or other animal. I am thinking about a farmer who hires one of these outfits that comes in with aircraft to destroy bugs on their crops. Of course, that bugging operation will harass birds, fish, and other animals. In other words, does this legislation contemplate the prohibition of this type of operation on a farm?

Mr. DINGELL. That is not covered by this bill. The primary action to which the statute is directed is the unlawful hunting of animals and not the activities of aircraft which have an incidental effect upon animals on the ground.

In other words, they are not covered by the bill.

Mr. JOHNSON of Pennsylvania. I thank the gentleman.

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

Mr. Speaker, I wish to congratulate my distinguished friend the gentleman from Pennsylvania (Mr. SAYLOR) for having introduced this legislation, and as cosponsor, I join with my chairman, the gentleman from Michigan (Mr. DINGELL), in support of this bill.

Mr. Speaker, the use of airplanes in wildlife conservation and management is widespread. The airplane and more recently the helicopter have proven to be extremely useful tools, particularly in remote areas of the Nation.

The true sportsman does not, however, shoot animals for sport from an airplane any more than he would hunt from an auto or truck. This is not hunting or sportsmanship; it is mere slaughter.

H.R. 5060 would amend the Fish and Widlife Act of 1956 by making it unlawful for anyone while airborne in an aircraft to shoot or attempt to shoot for the purpose of capturing or killing any bird, fish, or other animal, or to use such aircraft to harass any bird, fish, or other animal.

The House of Representatives passed H.R. 15188, a similar bill, on December 7, 1970, by suspension of the rules and a voice vote. Though a similar bill was reported out of the Commerce Committee of the other body, that body did not consider the bill due to the lateness in the second session of the 91st Congress and the legislative backlog prevalent at that time in the other body.

Your committee has made three changes in the substantive language of the bill passed by the House in the 91st Congress. The first change provides that the provisions of the bill do not apply to those operating under a license or permit of a State or the United States in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops. This amendment, unanimously accepted by both the Subcommittee on Fisheries and Wildlife Conservation and the full committee, fully meets the feelings of those who were concerned that the effect of the bill would adversely affect range management and control programs.

The second change was in the establishment of a reporting and permit system, administered by the State and the Department of the Interior, of the number and types of permits issued in addition to the reasons for the issuance of the permit, number, type, and location of the animals authorized to be taken. I sincerely hope that the States will exercise their authority to grant permits with great care. Should it appear that any State is abusing this discretion, I am certain that the Subcommittee on Fisheries and Wildlife Conservation of your committee will move promptly to curtail and correct such abuse.

Third, a legitimate point was raised in

the hearings which your committee held on March 23, 1971, to the extent that many of the State legislatures may not be able to implement legislatively the statute on a State level within the time frame originally contemplated due to the fact that some State legislatures will not be in session. Your committee concluded that this objection had merit and accordingly amended the bill to provide that the act will take effect 30 days after the next regular session of that State legislature.

I congratulate my distinguished colleague from Pennsylvania (Mr. SAYLOR) for having introduced this legislation, and I join in the remarks of the gentleman from Michigan (Mr. DINGELL) in urging the bill's passage.

Mr. PELLY. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. SAYLOR).

Mr. SAYLOR. Mr. Speaker, 6 months ago, at the close of the 91st Congress, I stood on the floor of this House and fervently appealed to our colleagues to pass H.R. 15188, the bill to prohibit the shooting of endangered species of wildlife from an aircraft. Whether or not it was because of my appeal, or the work of the distinguished members of the Merchant Marine and Fisheries Committee and especially the Members of the Fisheries and Wildlife Conservation Subcommittee, or whether it was because of the tremendous outpouring of support for the bill by the public, this House in its wisdom and compassion, passed the measure and sent it to the other body. That was indeed a happy and proud day for the House. No other conservation measure before that or any previous Congress had produced such an avalanche of public backing as had H.R. 15188.

Unfortunately, enactment of the bill by the 91st Congress was not accomplished. Disappointment was deep; for myself and the gentleman from Wisconsin (Mr. OBEY) as principle sponsors of the bill; for the members of the subcommittee who did yoeman work on the legislation; but most important, disappointment was felt keenest by citizens from every part of the United States who had talked to, written and telegraphed their representatives in Congress in support of the bill. I will not impugn the motives of those in the other body who saw fit to stymie passage of the bill—the past is buried as are the thousands of animals slaughtered since the introduction of our first proposal in December of 1969. A new situation, a new Congress, and a new bill is before us today; the time for historymaking is now.

Shortly after the 92d Congress convened, Congressman DAVID OBEY and I, along with 21 cosponsors, reintroduced the House-passed bill. I said at the time:

> Last year the House acted on our bill. Hearings were held, discussion was open and complete, reports from the agencies were filed, and the public had a chance to involve itself in the legislative process. Our bill passed the House unanimously but no action was taken in the Senate. What this means is simply that the concerned public will have to mount its letter-writing, telegram-sending, lobbying efforts once more. I am confident that with another effort such as the one last year, we can break through the barriers and achieve this much-needed piece of legislation.

And the public did just that. The effort was remounted. The spirit of the public was rekindled and resparked; the concern for our vanishing wildlife was not a "flash in the pan." Once again, the members of the Merchant Marine and Fisheries Committee set to work to find legislative solutions to problems thrown up at the last minute by certain obstructionists in the previous Congress.

H.R. 5060 is essentially the same bill that passed the House unanimously in the previous Congress. The heart of the measure is intact: We abhor and protest the wanton slaughter of wildlife from aircraft by human predators; we condemn the practice as unsportsmanlike—but more—we believe such activity to be below the dignity of man; we call upon our colleagues in the Congress and upon the true sportsmen of the Nation to unite to rid our company of those who would profit from such activity; and we give force to our wrath with provision for stiff penalties for those convicted of trafficking in such a barbaric practice.

Objections to the bill have been met and surmounted. Provision is made for States not now having licensing and permit authority required in the bill, to acquire such authority. Provision is made for the legitimate use of aircraft in the proper management of livestock, domesticated animals, or privately owned and managed wildlife. The "constitutional question" raised by the Department of Justice is answered in full and with legal incontestability. The "reporting requirements" are inclusive leaving no room for Federal, State, or local bureaucrats to "disinterpret" the letter and spirit of the act and thus perpetuate a practice which should never have been allowed to start had such officials been truly concerned with the existence of American wildlife.

Mr. Speaker, I am proud to be an author of H.R. 5060. I am proud to have my name associated with a piece of conservation legislation that has stood the test of time, the legislative process, and the machinations of the antienvironmentalists who seek to destroy America's natural wildlife treasure. Our bill, H.R. 5060, is one of those small, but truly significant pieces of legislation that mark the course of our concern for the natural environment. Passage of the bill by this House will establish an environmental signpost for all future Congresses; that sign might read—"During the 92d Congress, Man turned against men who turn against Nature."

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to my good friend and chairman of the full Committee on Merchant Marine and Fisheries, the gentleman from Maryland (Mr. GARMATZ).

Mr. GARMATZ. Mr. Speaker, I rise to urge prompt passage of H.R. 5060, as reported unanimously by my Committee on Merchant Marine and Fisheries.

I feel that this legislation is badly needed, because it proposes to prohibit one of the most unsportsmanlike practices of modern man—the hunting and shooting of fish and wildlife from aircraft.

Broad popular support for this legislation was originally generated in November 1969, when an NBC documentary film entitled "The Wolf Men" was shown on nationwide television. Several scenes from this film depicted the shooting of wolves from aircraft. Certain species of wolves are listed as an endangered species, and there are less than 5,400 total wolves in the United States.

There are, of course, other species of endangered animals which could be eliminated by the unwholesome practice of aircraft hunting, and I think everyone in this Nation has an obligation to help preserve our precious wildlife resources for future generations.

But in addition to protecting our wildlife, I think we all have a responsibility to stop the inhumane practice of using aircraft to hunt animals. I urge my colleagues in the House to support the unanimous position of my committee and pass this important conservation legislation.

GENERAL LEAVE TO EXTEND

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the bill H.R. 5060.

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

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 5060, as amended.

The question was taken.

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 307, nays 8, not voting 117, as follows:

[Roll No. 94]

YEAS—307

Abbitt	Boggs	Clancy
Abernethy	Boland	Clausen,
Abourezk	Bolling	Don H.
Abzug	Bow	Clawson, Del
Adams	Brasco	Cleveland
Addabbo	Bray	Collier
Anderson, Ill.	Brinkley	Collins, Tex.
Andrews, Ala.	Brotzman	Conable
Annunzio	Brown, Mich.	Conte
Archer	Brown, Ohio	Conyers
Arends	Broyhill, Va.	Crane
Ashley	Buchanan	Culver
Aspinall	Burke, Fla.	Daniel, Va.
Baker	Burke, Mass.	Daniels, N.J.
Baring	Burlison, Mo.	Danielson
Begich	Burton	Davis, Ga.
Belcher	Byrnes, Wis.	Davis, S.C.
Bell	Byron	Davis, Wis.
Bennett	Caffery	de la Garza
Bergland	Camp	Dellenback
Betts	Carney	Denholm
Bevill	Carter	Dennis
Biester	Cederberg	Derwinski
Bingham	Celler	Devine
Blanton	Chamberlain	Dingell
Blatnik	Chappell	Donohue

Dorn	Keating	Roberts
Downing	Kee	Rodino
Drinan	Keith	Roe
Dulski	King	Rogers
Duncan	Kluczynski	Roncalio
du Pont	Koch	Rooney, N.Y.
Dwyer	Kuykendall	Rosenthal
Eckhardt	Kyros	Rostenkowski
Edmondson	Landgrebe	Roush
Edwards, Ala.	Landrum	Roybal
Edwards, Calif.	Latta	Ruth
Esch	Leggett	Ryan
Eshleman	Lennon	St Germain
Evans, Colo.	Lent	Sandman
Fascell	Link	Sarbanes
Flowers	Lloyd	Satterfield
Flynt	Long, Md.	Saylor
Ford, Gerald R.	McCollister	Scherle
Ford, William D.	McCormack	Schmitz
	McDade	Schwengel
Forsythe	McDonald, Mich.	Scott
Fountain		Sebelius
Fraser	McFall	Selberling
Frelinghuysen	McKay	Shipley
Frenzel	McKinney	Shoup
Frey	McMillan	Shriver
Fulton, Pa.	Madden	Sikes
Fuqua	Mahon	Sisk
Gallagher	Mailliard	Skubitz
Garmatz	Mann	Smith, Iowa
Giaimo	Martin	Smith, N.Y.
Gibbons	Mathis, Ga.	Snyder
Gonzalez	Matsunaga	Spence
Goodling	Mayne	Springer
Gray	Mazzoli	Stafford
Griffin	Meeds	Staggers
Griffiths	Metcalfe	Stanton, J. William
Gross	Michel	
Grover	Mikva	Stanton, James V.
Gubser	Miller, Calif.	
Gude	Miller, Ohio	Steed
Hagan	Mills	Steiger, Ariz.
Haley	Minish	Steiger, Wis.
Hall	Mink	Stubblefield
Halpern	Minshall	Talcott
Hamilton	Mollohan	Taylor
Hammer-schmidt	Monagan	Teague, Calif.
	Montgomery	Teague, Tex.
Hanley	Moorhead	Terry
Harrington	Morse	Thompson, Ga.
Harsha	Mosher	Thomson, Wis.
Harvey	Moss	Thone
Hastings	Murphy, N.Y.	Tiernan
Hathaway	Myers	Ullman
Hays	Natcher	Van Deerlin
Hébert	Nedzi	Vanik
Hechler, W. Va.	Nichols	Veysey
Helstoski	Obey	Vigorito
Henderson	O'Konski	Waggonner
Hicks, Mass.	O'Neill	Waldie
Hicks, Wash.	Passman	Wampler
Hogan	Patten	Ware
Hosmer	Pelly	Watts
Howard	Perkins	Whalen
Hull	Pettis	Whitehurst
Hungate	Peyser	Whitten
Hunt	Pike	Williams
Hutchinson	Pirnie	Wilson, Charles H.
Ichord	Powell	
Jacobs	Preyer, N.C.	Wolff
Jarman	Pucinski	Wright
Johnson, Calif.	Purcell	Wylie
Johnson, Pa.	Quie	Wyman
Jones, Ala.	Quillen	Yates
Jones, N.C.	Rees	Young, Tex.
Jones, Tenn.	Reid, Ill.	Zablocki
Karth	Reid, N.Y.	Zion
Kastenmeier	Reuss	Zwach
Kazen	Riegle	

NAYS—8

Burleson, Tex.	McClure	Price, Tex.
Casey, Tex.	Melcher	White
Fisher	Mizell	

NOT VOTING—117

Alexander	Chisholm	Fish
Anderson, Calif.	Clark	Flood
	Clay	Foley
Anderson, Tenn.	Collins, Ill.	Fulton, Tenn.
	Colmer	Galifianakis
Andrews, N. Dak.	Corman	Gaydos
	Cotter	Gettys
Ashbrook	Coughlin	Goldwater
Aspin	Delaney	Grasso
Badillo	Dellums	Green, Oreg.
Barrett	Dent	Green, Pa.
Biaggi	Dickinson	Hanna
Blackburn	Diggs	Hansen, Idaho
Brademas	Dow	Hansen, Wash.
Brooks	Dowdy	Hawkins
Broomfield	Edwards, La.	Heckler, Mass.
Broyhill, N.C.	Eilberg	Hillis
Byrne, Pa.	Erlenborn	Holifield
Cabell	Evins, Tenn.	Horton
Carey, N.Y.	Findley	Jonas
Kemp	Poage	Steele
Kyl	Podell	Stephens
Long, La.	Poff	Stokes
Lujan	Price, Ill.	Stratton
McClory	Pryor, Ark.	Stuckey
McCloskey	Railsback	Sullivan
McCulloch	Randall	Symington
McEwen	Rangel	Thompson, N.J.
McKevitt	Rarick	Udall
Macdonald, Mass.	Rhodes	Vander Jagt
	Robinson, Va.	Whalley
Mathias, Calif.	Robison, N.Y.	Widnall
Mitchell	Rooney, Pa.	Wiggins
Morgan	Rousselot	Wilson, Bob
Murphy, Ill.	Roy	Winn
Nelsen	Runnels	Wyatt
Nix	Ruppe	Wydler
O'Hara	Scheuer	Yatron
Patman	Schneebeli	Young, Fla.
Pepper	Slack	
Pickle	Smith, Calif.	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Holifield with Mr. Andrews of North Dakota.
Mr. Dent with Mr. Whalley.
Mr. Cabell with Mr. Dickinson.
Mr. Flood with Mr. McClory.
Mr. Biaggi with Mr. Fish.
Mr. Barrett with Widnall.
Mr. Byrne of Pennsylvania with Mr. Goldwater.
Mr. Foley with Mr. Broomfield.
Mr. Eilberg with Mr. McCloskey.
Mr. Green of Pennsylvania with Mr. Coughlin.
Mr. Rooney of Pennsylvania with Mr. Vander Jagt.
Mr. Price of Illinois with Mr. Ashbrook.
Mr. Monogan with Mr. McKevitt.
Mr. Macdonald of Massachusetts with Mr. Ruppe.
Mr. Anderson of Tennessee with Mr. Hansen of Idaho.
Mr. Brademas with Mr. Railsback.
Mr. Brooks with Mr. Blackburn.
Mr. Cotter with Mr. Winn.
Mrs. Grasso with Mr. Kemp.
Mrs. Green of Oregon with Mrs. Heckler of Massachusetts.
Mr. Runnels with Mr. Wydler.
Mr. Stuckey with Mr. Jonas.
Mrs. Sullivan with Mr. Young of Florida.
Mr. Aspin with Mr. McEwen.
Mr. Clark with Mr. Mitchell.
Mrs. Chisholm with Mr. Roy.
Mr. Dow with Mr. Nix.
Mr. Yatron with Mr. Rangel.
Mr. Corman with Mr. Collins of Illinois.
Mr. Symington with Mr. Dellums.
Mr. Scheuer with Mr. Diggs.
Mr. Hanna with Mr. Badillo.
Mr. Delaney with Mr. Lujan.
Mr. O'Hara with Mr. Clay.
Mr. Fulton of Tennessee with Rousselot.
Mr. Galifianakis with Mr. Wyatt.
Mr. Alexander with Mr. Hellis.
Mr. Stephens with Mr. Mathias of California.
Mr. Anderson of Tennessee with Mr. Kyl.
Mr. Slack with Mr. Poff.
Mr. Colmer with Mr. Broyhill of North Carolina.
Mr. Evins of Tennessee with Mr. Erlenborn.
Mr. Gettys with Mr. Findley.
Mr. Stratton with Mr. Bob Wilson.
Mr. Gaydos with Mr. Steele.
Mr. Dowdy with Mr. Nelsen.
Mrs. Hansen of Washington with Mr. Horton.
Mr. Patman with Mr. Rhodes.
Mr. Thompson of New Jersey with Mr. Wiggins.
Mr. Edwards of Louisiana with Mr. Robinson of Virginia.
Mr. Long of Louisiana with Mr. Smith of California.
Mr. Pickle with Mr. Robison of New York.
Mr. Rarick with Mr. Pryor of Arkansas.
Mr. Podell with Mr. Stokes.
Mr. Carey of New York with Mr. Hawkins.
Mr. Murphy of Illinois with Mr. Randall.
Mr. Pepper with Mr. Udall.

Mr. McCLURE changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL ANNOUNCEMENT

Mr. PEPPER. Mr. Speaker, I missed the rollcall vote on the bill H.R. 5060, on account of being in my office. If I had been present, I would have voted "yea."

ESTABLISHING THE NATIONAL ADVISORY COMMITTEE ON THE OCEANS AND ATMOSPHERE

Mr. LENNON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2587) to establish the National Advisory Committee on the Oceans and Atmosphere.

The Clerk read as follows:

H.R. 2587

A bill to establish the National Advisory Committee on the Oceans and Atmosphere

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, There is hereby established a committee of twenty-one members to be known as the National Advisory Committee on the Oceans and Atmosphere (hereafter referred to in this Act as the "Advisory Committee").

SEC. 2. (a) The members of the Advisory Committee, who may not be full-time officers or employees of the United States, shall be appointed by the President and shall be drawn from State and local government, industry, science, and other appropriate areas.

(b) Except as provided in subsections (c) and (d), members shall be appointed for terms of three years.

(c) Of the members first appointed, as designated by the President at the time of appointment—

(1) seven shall be appointed for a term of one year,

(2) seven shall be appointed for a term of two years, and

(3) seven shall be appointed for a term of three years.

(d) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(e) The President shall designate one of the members of the Advisory Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of vacancy in the office of the Chairman.

SEC. 3. Each department and agency of the Federal Government concerned with marine and atmospheric matters shall designate a senior policy official to participate as observer in the work of the Advisory Committee and to offer necessary assistance.

SEC. 4. The Advisory Committee shall (1) undertake a continuing review of the progress of the marine and atmospheric science and service programs of the United States, and (2) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration. The Advisory Committee shall submit a comprehensive annual

report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities and shall submit such other reports as may from time to time be requested by the President. Each such report shall be submitted to the Secretary of Commerce who shall, within 90 days after receipt thereof, transmit copies to the President and to the Congress, with his comments and recommendations.

SEC. 5. Members of the Advisory Committee shall, while serving on business of the Committee, be entitled to receive compensation at rates not to exceed $100 per diem, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 6. The Secretary of Commerce shall make available to the Advisory Committee such staff, information, personnel and administrative services and other expenses and assistance as it may reasonably require to carry out its activities.

The SPEAKER. Is a second demanded?

Mr. MOSHER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. LENNON. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, this is an identical bill to the one that passed the House on December 7 last year after being reported out by a unanimous "aye" vote of the full committee and the subcommittee that was handling the bill.

As you ladies and gentlemen of the House know, the other body was not able to reach it during the last calendar year. It was again this year unanimously reported out of the subcommittee and the full committee and it is here today.

Mr. Speaker, for more than a decade, there has been a growing concern among Members of Congress and among knowledgeable segments of the general public that this Nation has been deficient in addressing the proper attention to the development of the vast resources of the oceans that wash our shorelines. That concern culminated in the Marine Resources and Engineering Act of 1966, in which the congressional intent was made crystal clear that a cohesive national ocean program was of major importance and that it should be developed promptly. As a part of that act, a Commission on Marine Science, Engineering, and Resources was established to develop the background information and to propose specific recommendations upon which that program could be based.

The two principal recommendations of the Marine Science Commission dealing with the proper Federal Government structure for executing a viable national program was: First, the creation of a National Oceanic and Atmospheric Administration, and second, the establishment of a National Advisory Committee to serve as a vital link between the Federal Government on the one hand and State and local governments, private industry, and the scientific and academic communities, on the other. The first of these recommendations, at least in its basic concept, was accomplished by the creation of the National Oceanic and Atmospheric Administration on October 3, 1970, by Reorganziation Plan No. 4 of 1970. This bill for consideration by us today will accomplish the second.

The bill, which I am privileged to cosponsor along with 17 other Members, was unanimously endorsed by the Subcommittee on Oceanography, of which I have the honor of serving as chairman, and was unanimously ordered reported favorably to this House by your Committee on Merchant Marine and Fisheries. It is identical to H.R. 19576 of the 91st Congress, which was passed by this House, under suspension of the rules, on December 7, 1970. Unfortunately, because of the date of passage, so close to the date of adjournment of the 91st Congress, no action was taken by the other body.

Mr. Speaker, the bill provides for the creation of a 21-member National Advisory Committee on the Oceans and Atmosphere, to be appointed by the President. The initial appointments will be divided into three groups of seven members, to be appointed for 1-year, 2-year, and 3-year terms. Thereafter, one-third of the membership will change each year, insuring a continuing source of new ideas and leadership, from both State and local government sources and segments of the general public, including industrial, scientific, conservation, and academic interests.

To assist the committee in its work, the bill also provides that each department and agency of the Federal Government concerned with marine and atmospheric matters will designate a senior policy official to serve as an observer with the committee, not only to assist the committee in its work but also serve as a point of liaison for insuring the proper coordination of agency programs in the ocean arena.

Mr. Speaker, the duties of the committee are twofold: First, to perform a continuing review of the progress of the marine and atmospheric science and service programs of the United States, and second, to advise the Secretary of Commerce with respect to carrying out of the purposes of the National Oceanic and Atmospheric Administration. In carrying out these duties, it will be required to submit an annual report which will hopefully reflect the broad experience of the members by the inclusion of specific recommendations which will insure the most practical approach to the thorough and expeditious implementation of a complete and coordinated national ocean program.

Finally, in order to permit the committee to function in its proper capacity as a catalytic group of national advisers, the bill provides that the Department of Commerce will furnish the necessary staff support and assistance.

Mr. Speaker, your Committee on Merchant Marine and Fisheries is proud of its part in the creation of the Commission to which I previously alluded which, under the able leadership of Dr. Julius Stratton, did such yeoman work in preparing its final report, which has erected the first guidepost in the construction of our national ocean program. We are as equally confident in the contribution which the National Advisory Committee will make in further pointing the way to the accomplishment of our ultimate goal.

Not only does the concept reflected in this bill have the full endorsement of your committee, but it has also been endorsed by the various departments of the Federal Government involved in ocean activities, and by the President. I urge the unanimous support of all Members for this important legislation.

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

Mr. LENNON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's statement, and at this hour of the day, his conciseness. The gentleman knows that I honor his opinion.

However, do we need this additional Advisory Commission in view of the Oceanographic Institutes that we support with full funding, and in view of the fact that the Secretary of the Navy's Director of Research and Development is the permanent committee chairman on the widespread Federal funding on oceanography? And in view of the other committees, committee groups, and in covering, working on, and storing data on this very important subject of oceanography at this time?

Mr. LENNON. I would like to answer the gentleman this way, if I may.

The gentleman will recall the Stratton Commission report. They said that the creation and the active participation of this Commission was in itself just as important as the establishment of the NOAA, and I might say to the gentleman that one of the prime sponsors and spokesmen for this legislation was the retired Oceanographer of the Navy.

So I say this is just as essential. As a matter of fact, in the 27 days of hearings that our subcommittee had on the Stratton Commission report there was complete unanimity in every area, at the Federal level, all the agencies, departments, bureaus, at the State level, the private organizations, and the private sector of our economy. All were unanimous in their thinking and in their opinions that we ought to have this advisory commission on the national level. And that is reflected, I will say to my friend, the gentleman from Missouri (Mr. HALL) in the report on the legislation.

Mr. HALL. Mr. Speaker, would the gentleman yield further?

Mr. LENNON. I yield further to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I thank my distinguished colleague for yielding. I will say to my colleague that I have read every word of the report, and I repeat indeed do reverse and respect his word. I cannot understand the unanimity with which this comes out of the committee, but perhaps, Mr. Speaker, I have just been overinoculated against the virus of study groups and commissions, and special people that are brought together to do specific jobs when they are within the purview and the surveillance of other

groups within the Bureaus of the Congress. We pay these people fabulous per diems, plus all expenses. They have trouble recruiting the type of technical personnel they need and, just as we have done twice before today, we extend the time for their report, and then somebody forgets to read the report after it is all over with. I admit, over inoculation leads to allergy, if not anophyloctic shock.

I believe this is government by crony or by proxy, where the commissions hire out most of their research that is to be done to contracting agencies organized and staffed for the purpose of procuring contracts and grants. I believe that sooner or later it is going to be time to call a halt.

I will agree with the gentleman from North Carolina that maybe this may be the wrong time, but I can name at least three different organizations besides the oceanographic institutes, all referring or contracting with the Government to perform these services.

Again I thank the gentleman for yielding.

The SPEAKER. The time of the gentleman from North Carolina has expired.

Mr. LENNON. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker, I will yield further to the gentleman from Missouri (Mr. HALL) if he wishes.

Mr. HALL. Mr. Speaker, I thank the gentleman, but I have made my observations and asked my questions.

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

Mr. LENNON. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I want to thank my good friend, the gentleman from North Carolina (Mr. LENNON) for yielding to me.

As the gentleman will recall, last year we had a discussion on the point which I now raise, and I would like to direct the attention of my dear friend, the gentleman from North Carolina (Mr. LENNON) to page 4, at the bottom of that page, and then at the very top of page 5, dealing with the composition of this agency, and it says:

> Recognizing the growing national concern for environmental protection, it is expected that the President will appoint to the Advisory Committee a number of individuals who have training and experience in conservation, ecology, or other fields devoted to the protection and enhancement of environmental quality.

My question is: the last time the Department of Commerce set up an advisory body, they set up a water pollution control advisory council which was composed entirely and completely of the big polluters of our country, and the top officials of the big polluting corporations.

I am sure this language means just what it says, and I ask my dear friend and colleague, as chairman of the subcommittee which handled this bill, so we can lay out with great clarity the legislative history, that it is the intention that this will not happen again, and that this will be a broadly manned group.

Mr. LENNON. I will say to my friend, the gentleman from Michigan (Mr. DINGELL) that the legislation definitively provides for and includes industrial, scientific, conservation, and academic interests and I have every reason to believe that this 21-man committee appointed by the President at a national level will be able to do a very excellent job together.

Mr. DINGELL. I thank my dear friend, the gentleman from North Carolina, for his statement, and I would add further that I intend to bring this to the attention of the administration at the proper time.

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

Mr. LENNON. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I want to join in and endorse the observations made by my friend, the gentleman from Missouri (Mr. HALL) and say to the gentleman from North Carolina that I see no reason for the creation of an advisory commission at this time in view of the numerous organizations already operating in this field.

Mr. Speaker, if there is to be no rollcall vote on this particular bill, I would like the RECORD to show I am opposed to it.

Mr. MOSHER. Mr. Speaker, I want to say to the gentleman from Missouri and the gentleman from Iowa that the questions of concern that they have raised are important questions. But the purpose of the advisory council that we are proposing here is important and is necessary, based on the testimony before our committee, particularly as a liaison between various governmental units that the gentleman mentioned and the private sector. It is extremely important that the marine industry have an instrument by which to express themselves to the governmental unit.

Mr. Speaker, I rise in strong support of the bill and I want to reemphasize the fact that it has the complete support of our committee. It is a bipartisan effort and it is supported by the administration.

Mr. Speaker, I wish to join the chairman of the Oceanography Subcommittee in supporting H.R. 2587, to establish the National Advisory Committee on the Oceans and Atmosphere. And I testify to the fact that within our committee the support for this bill is complete and bipartisan.

As a member of the Oceanography Subcommittee, I have been concerned for a number of years about this Nation's failure to recognize the importance of the oceans to our future economic development, and our apathy toward the chaos which man has created in the coastal zone, that narrow belt of land bordering the seas where the majority of the world's population is concentrated.

In the early 1960's, our Subcommittee on Oceanography initiated hearings which culminated in the enactment of the Marine Resources and Engineering Development Act of 1966. This landmark legislation for the first time declared it to be the policy of the United States to develop, encourage, and maintain a coordinated, comprehensive and long-range national program in marine science. It established the National Council on Marine Resources, chaired by the Vice President and including six Cabinet Secretaries. It directed the President to establish a Commission on Marine Science, Engineering and Resources composed of 15 members drawn from Federal and State government, industry, universities, and other institutions engaged in marine scientific and technological pursuits.

That Commission was given a mandate to investigate all aspects of marine science in order to recommend an overall plan for an adequate national program. Under the chairmanship of Dr. Julius Stratton, it submitted its findings to the President and the Congress on January 9, 1969. The report of the Commission entitled "Our Nation and the Sea," together with its supporting appendices, is a truly comprehensive analysis of our existing programs and shortcomings, and points the way to the future. Upon reading "Our Nation and the Sea," one must conclude that we are, with respect to the oceans, at about the same stage of development as our space programs were when the Wright brothers first flew.

The Stratton Commission report contains many excellent recommendations for this Nation's future role in the oceans and the closely related field of atmospheric research. We have only just begun to analyze and implement these recommendations.

The most widely heralded suggestion of the Stratton Commission was the establishment of a Government agency to spearhead these programs during the next decade with the advice and counsel of an advisory committee drawn from outside the Federal Government.

These recommendations became the focal point of our subcommittee hearings during the 91st Congress. This was a logical first step, since everyone concerned with the Federal Government's role recognized that it had become fragmented among many different agencies, and that the efforts of these agencies overlapped to a wasteful degree and lacked any fundamental coordination.

At the beginning of our hearings in 1969, I pointed out that it might be preferable for the President, through his powers under the Reorganization Act, to implement the basic structural changes called for by the Stratton Commission. At the same time, our subcommittee proceeded to consider legislation to establish NOAA and the advisory committee, recognizing however that a major realinement of existing agency responsibilities posed numerous difficulties. Consequently, the subcommittee maintained a dialog with the administration and the President's Commission on Executive Reorganization. I believe that this dialog contributed substantially to the President's submission of Reorganization Plan No. 4 of 1970, creating NOAA within the Department of Commerce.

The distinguished chairman of the Oceanography Subcommittee (Mr. LENNON) and I testified before the Committee on Government Operations in support of Reorganization Plan No. 4 on behalf of almost the entire membership of the Committee on Merchant Marine and Fisheries. At that time, we advised the Committee on Government Opera-

tions of our intention to sponsor legislation establishing the National Advisory Committee on the Oceans and Atmosphere as an essential corollary to the reorganization plan.

Our ensuing discussions with Secretary of Commerce Stans were most fruitful. Legislation was drafted in a spirit of cooperation to insure the enactment of a measure which will fulfill the excellent recommendation of the Stratton Commission. On December 7, 1970, this legislation was passed by the House. Unfortunately, the other body did not act before the close of the 91st Congress.

Mr. Speaker, unlike our space programs, this Nation's involvement in the oceans is an operational partnership between many elements of government and industry. Each is contributing substantially and has a significant role to play in the future. The National Advisory Committee will provide the needed mechanism for interchange between the Federal organization and the broad national maritime community. Periodic appointment of new members at 3-year intervals will insure that fresh insights and concepts are made available to the Secretary of Commerce and NOAA.

Mr. Speaker, the establishment of NOAA and the Advisory Committee is the first step toward a coordinated national marine and atmospheric program which promises to pay great dividends for man. The bill before us today is identical to the legislation which was passed last December. It has been strongly endorsed by the administration, and I urge my colleagues to again support its passage.

Mr. LENNON. Mr. Speaker, I yield to the distinguished gentleman from Maryland (Mr. GARMATZ), chairman of the Committee on Merchant Marine and Fisheries.

Mr. GARMATZ. Mr. Speaker, the speedy enactment of H.R. 2587 is a vital part of this Nation's effort to mount a meaningful national oceanographic effort, and I urge its passage.

On January 9, 1969, the President's Commission on Marine Science, Engineering, and Resources transmitted to the Congress its report, entitled "Our Nation and the Sea." That report consisted of a review of existing and needed marine science activities of the United States and included many important recommendations for the best ways to tackle the problems of ocean utilization and protection.

One of the primary concerns expressed in the report was the need for an effective coordination of our national efforts, the first of which has been addressed by the creation of the new National Oceanic and Atmospheric Administration, to draw together the basic marine science activities of the Federal Government. A second, equally important, concern is related to the subject matter of today's bill; its purpose is to provide a simple, yet effective mechanism to coordinate the Federal efforts with the wide-ranging efforts of the States and members of the ocean-oriented public.

Mr. Speaker, during the course of hearings held by the Oceanography Subcommittee of the Committee on Merchant Marine and Fisheries to review the report and recommendations of the Commission, the pressing need for establishing a National Advisory Committee, which will be accomplished by H.R. 2587, was constantly emphasized by the host of expert witnesses who testified. These witnesses were virtually unanimous in their support of this idea.

The Advisory Committee which this bill will establish will be composed of 21 distinguished members, coming from a broad background of interest and experience, and representing State and local governments, industry, science, and conservation and academic groups. Such a committee is essential if we are to implement a truly national effort in the oceans, since the members of the committee would insure a strong local government and general public input into the national processes and would facilitate the proper coordination of all interests.

I urge all Members to support this legislation.

Mr. ROGERS. Mr. Speaker, I join with my colleagues in urging passage of this legislation which will authorize a 21-member Commission to study and advise us in the areas of marine and atmospheric sciences.

Although we have now in operation the National Oceanic and Atmospheric Administration, the need for a continuing dialog between Government and industry and the academic community is still very real.

As it was pointed out in the hearings, the creation of an advisory committee will strengthen and give guidance to the activities of NOAA and to the President and the Congress.

At the same time, the advisory committee will be in a position to evaluate on a continuing basis the progress of NOAA and to monitor its effect on the marine and atmospheric communities as well.

We have found that the private sector is most willing to help if given the opportunity. The very creation of NOAA came as a result of an intense investigation of another advisory committee.

The oceans have long been an untapped resource and I hope that we will give this very vital area a greater priority in the coming year. And from what we already know, there is a definite interrelation between the oceans and the atmosphere which we must understand.

The SPEAKER. The question is on the motion of the gentleman from North Carolina (Mr. LENNON) that the House suspend the rules and pass the bill H.R. 2587.

The question was taken.

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 293, nays 10, not voting 130, as follows:

[Roll No. 95]

YEAS—293

Abbitt	Frenzel	Obey
Abourezk	Frey	O'Konski
Abzug	Fulton, Pa.	O'Neill
Adams	Fuqua	Passman
Addabbo	Gallagher	Patten
Anderson, Ill.	Garmatz	Pelly
Andrews, Ala.	Gibbons	Pepper
Annunzio	Gonzalez	Perkins
Archer	Goodling	Pettis
Arends	Gray	Peyser
Ashley	Griffin	Pike
Aspinall	Griffiths	Pirnie
Baker	Grover	Podell
Baring	Gubser	Powell
Begich	Gude	Preyer, N.C.
Belcher	Hagan	Price, Tex.
Bell	Haley	Pucinski
Bennett	Halpern	Quillen
Bergland	Hamilton	Rees
Betts	Hammer-schmidt	Reid, Ill.
Bevill	Harrington	Reid, N.Y.
Biester	Harsha	Reuss
Bingham	Harvey	Riegle
Blanton	Hastings	Roberts
Blatnik	Hathaway	Rodino
Boggs	Hays	Roe
Bolling	Hechler, W. Va.	Rogers
Bow	Helstoski	Rosenthal
Brasco	Henderson	Rostenkowski
Bray	Hicks, Mass.	Roush
Brinkley	Hicks, Wash.	Roybal
Brotzman	Hogan	Ruth
Brown, Mich.	Hosmer	Ryan
Brown, Ohio	Howard	St Germain
Broyhill, Va.	Hull	Sandman
Buchanan	Hungate	Sarbanes
Burke, Fla.	Hunt	Satterfield
Burke, Mass.	Hutchinson	Saylor
Burleson, Tex.	Ichord	Scherle
Burlison, Mo.	Jacobs	Schwengel
Burton	Jarman	Scott
Byron	Johnson, Calif.	Sebelius
Caffery	Johnson, Pa.	Seiberling
Camp	Jones, N.C.	Shipley
Carey, N.Y.	Jones, Tenn.	Shoup
Carney	Karth	Shriver
Carter	Kastenmeier	Sikes
Casey, Tex.	Kazen	Sisk
Cederberg	Keating	Skubitz
Celler	Kee	Smith, Calif.
Chamberlain	Keith	Smith, Iowa
Chappell	Kluczynski	Smith, N.Y.
Clancy	Koch	Snyder
Clausen, Don H.	Kyros	Spence
Clawson, Del	Latta	Springer
Cleveland	Leggett	Stafford
Collier	Lennon	Staggers
Collins, Tex.	Link	Stanton, J. William
Conable	Long, Md.	Stanton, James V.
Conte	McClure	Steed
Conyers	McCollister	Steiger, Ariz.
Crane	McDade	Steiger, Wis.
Culver	McDonald, Mich.	Stubblefield
Daniel, Va.	McFall	Talcott
Daniels, N.J.	McKay	Taylor
Danielson	McKinney	Teague, Calif.
Davis, Ga.	Madden	Teague, Tex.
Davis, S.C.	Mahon	Terry
Davis, Wis.	Mailliard	Thompson, Ga.
de la Garza	Mann	Thompson, N.J.
Dellenback	Martin	Thomson, Wis.
Denholm	Mathis, Ga.	Thone
Dennis	Matsunaga	Tiernan
Derwinski	Mazzoli	Ullman
Devine	Meeds	Van Deerlin
Dingell	Melcher	Vanik
Donohue	Metcalfe	Veysey
Dorn	Michel	Vigorito
Downing	Mikva	Waggonner
Drinan	Miller, Calif.	Waldie
Dulski	Miller, Ohio	Wampler
Duncan	Mills	Ware
du Pont	Minish	Watts
Dwyer	Mink	Whalen
Eckhardt	Minshall	White
Edmondson	Mitchell	Whitehurst
Edwards, Ala.	Mizell	Williams
Edwards, Calif.	Mollohan	Wolff
Esch	Monagan	Wright
Eshleman	Moorhead	Wylie
Evans, Colo.	Morse	Wyman
Evins, Tenn.	Mosher	Yates
Fascell	Moss	Young, Tex.
Fisher	Murphy, N.Y.	Zablocki
Flowers	Myers	Zion
Flynt	Natcher	Zwach
Forsythe	Nedzi	
Fountain	Nichols	
Frelinghuysen		

NAYS—10

Gross	Lloyd	Rooney, N.Y.
Hall	Mayne	Schmitz
Kuykendall	Montgomery	
Landgrebe	Roncallo	

NOT VOTING—130

Abernethy	Ford,	O'Hara
Alexander	William D.	Patman
Anderson,	Fraser	Pickle
Calif.	Fulton, Tenn.	Poage
Anderson,	Galifianakis	Poff
Tenn.	Gaydos	Price, Ill.
Andrews,	Gettys	Pryor, Ark.
N. Dak.	Giaimo	Purcell
Ashbrook	Goldwater	Quie
Aspin	Grasso	Railsback
Badillo	Green, Oreg.	Randall
Barrett	Green, Pa.	Rangel
Biaggi	Hanley	Rarick
Blackburn	Hanna	Rhodes
Boland	Hansen, Idaho	Robinson, Va.
Brademas	Hansen, Wash.	Robison, N.Y.
Brooks	Hawkins	Rooney, Pa.
Broomfield	Hébert	Rousselot
Broyhill, N.C.	Heckler, Mass.	Roy
Byrne, Pa.	Hillis	Runnels
Byrnes, Wis.	Holifield	Ruppe
Cabell	Horton	Scheuer
Chisholm	Jonas	Schneebeli
Clark	Jones, Ala.	Slack
Clay	Kemp	Steele
Collins, Ill.	King	Stephens
Colmer	Kyl	Stokes
Corman	Landrum	Stratton
Cotter	Lent	Stuckey
Coughlin	Long, La.	Sullivan
Delaney	Lujan	Symington
Dellums	McClory	Udall
Dent	McCloskey	Vander Jagt
Dickinson	McCormack	Whalley
Diggs	McCulloch	Whitten
Dow	McEwen	Widnall
Dowdy	McKevitt	Wiggins
Edwards, La.	McMillan	Wilson, Bob
Eilberg	Macdonald,	Wilson,
Erlenborn	Mass.	Charles H.
Findley	Mathias, Calif.	Winn
Fish	Morgan	Wyatt
Flood	Murphy, Ill.	Wydler
Foley	Nelsen	Yatron
Ford, Gerald R.	Nix	Young, Fla.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Holifield with Mr. Andrews of North Dakota.
Mr. Dent with Mr. Whalley.
Mr. Cabell with Mr. Dickinson.
Mr. Flood with Mr. McClory.
Mr. Biaggi with Mr. Fish.
Mr. Barrett with Mr. Widnall.
Mr. Byrne of Pennsylvania with Mr. Goldwater.
Mr. Foley with Mr. Broomfield.
Mr. Eilberg with Mr. McCloskey.
Mr. Green of Pennsylvania with Mr. Coughlin.
Mr. Rooney of Pennsylvania with Mr. Vander Jagt.
Mr. Price of Illinois with Mr. Ashbrook.
Mr. Morgan with Mr. McKevitt.
Mr. Macdonald of Massachusetts with Mr Ruppe.
Mr. Anderson of Tennessee with Mr. Hansen of Idaho.
Mr. Brademas with Mr. Railsback.
Mr. Brooks with Mr. Blackburn.
Mr. Cotter with Mr. Winn.
Mrs. Grasso with Mr. Kemp.
Mrs. Green of Oregon with Mrs. Heckler of Massachusetts.
Mr. Runnels with Mr. Wydler.
Mr. Stuckey with Mr. Jonas.
Mrs. Sullivan with Mr. Young of Florida.
Mr. Aspin with Mr. McEwen.
Mr. Clark with Mr. Dowdy.
Mrs. Chisholm with Mr. Roy.
Mr. Dow with Mr. Nix.
Mr. Yatron with Mr. Rangel.
Mr. Corman with Mr. Collins of Illinois.
Mr. Symington with Mr. Dellums.
Mr. Scheuer with Mr. Diggs.
Mr. Hanna with Mr. Badillo.
Mr. Delaney with Mr. Lujan.
Mr. O'Hara with Mr. Clay.
Mr. Fulton of Tennessee with Mr. Rousselot.
Mr. Galifianakis with Mr. Wyatt.
Mr. Jones of Alabama with Mr. Broyhill of North Carolina.
Mr. Landrum with Mr. Mathias.
Mr. Purcell with Mr. Lent.
Mr. Boland with Mr. Horton.
Mr. Slack with Mr. Erlenborn.
Mr. Whitten with Mr. Hillis.
Mr. Edwards of Louisiana with Mr. Nelsen.
Mr. William D. Ford with Mr. Schneebeli.
Mr. Patman with Mr. Byrnes of Wisconsin.
Mr. Pickle with Mr. King.
Mr. Giaimo with Mr. Steele.
Mr. Gettys with Mr. Findley.
Mr. Gaydos with Mr. Wiggins.
Mr. Long of Louisiana with Mr. Quie.
Mr. Alexander with Mr. McEwen.
Mr. Anderson of California with Mr. Bob Wilson.
Mr. Abernethy with Mr. Poff.
Mr. Charles H. Wilson with Mr. Robison of New York.
Mr. Udall with Mr. Rhodes.
Mr. Hébert with Mr. Gerald R. Ford.
Mr. McCormack with Mr. Robinson of Virginia.
Mr. Stephens with Mr. Kyl.
Mr. Fraser with Mr. Stokes.
Mrs. Hansen of Washington with Mr. Hawkins.
Mr. Pryor of Arkansas with Mr. McMillan.
Mr. Murphy of Illinois with Mr. Rarick.
Mr. Hanley with Mr. Randall.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADDITIONAL LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time to advise the Members of the House that if the Committee on Interstate and Foreign Commerce completes action tomorrow morning on the railroad strike bill, we will schedule that bill for consideration tomorrow afternoon.

If that bill is scheduled for consideration tomorrow afternoon, it is probable that the consideration of the employment bill will go from Tuesday to Wednesday.

AMENDING THE WATER RESOURCES PLANNING ACT TO AUTHORIZE INCREASED APPROPRIATIONS

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6359) to amend the Water Resources Planning Act to authorize increased appropriations, as amended.

The Clerk read as follows:

H.R. 6359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Water Resources Planning Act (79 Stat. 244, 42 U.S.C. 1962 et seq.) is amended by striking out the present section 401 and inserting in lieu thereof the following:

"SEC. 401. There are authorized to be appropriated—(a) not to exceed $6,000,000 annually for the Federal share of the expenses of administration and operation of river basin commissions, including salaries and expenses of the chairman: *Provided,* That not more than $750,000 annually shall be available under this subsection for any single river basin commission; and

"(b) not to exceed $1.5 million annually for the expenses of the Water Resources Council in administering this Act."

The SPEAKER. Is a second demanded?

Mr. HOSMER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. JOHNSON).

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

Mr. Speaker, H.R. 6359 is a simple straightforward bill to increase the amount authorized to be appropriated for operation of the headquarters offices of the Water Resources Council. The Council was established by Public Law 89–80, the Water Resources Planning Act of 1965. That legislation, in addition to providing for the Council, spelled out the machinery for creation of Federal river basin commissions and also set up a system of grants to States to aid in water and related land resource planning.

The act, as amended, which will be amended by H.R. 6359 provides appropriations authority to the three activities in the amount of $500,000 for operation of the Council, $6,000,000 for operation of the river basin commissions and $400,000 for administering the grant program. Since the first and third of these programs are carried out in the headquarters office of the Council and the personnel engaged in these programs are generally interchangeable, it has proven unworkable and awkward to make a distinction between grant administration and other Council activities generally. The bill we are considering today will eliminate this distinction by authorizing a single appropriation for all Water Resources Council activities.

The bill as reported from committee sets a new level of authorized appropriations at $1,500,000. While this is a 67-percent increase over the $900,000 presently authorized, testimony before the Committee on Interior and Insular Affairs Subcommittee on Irrigation and Reclamation shows that the new amount is necessary to cover ongoing work and to provide a small increment for future increases in subsequent years.

Actually, Mr. Speaker, the President's budget for fiscal year 1972 includes a request for $1,381,000 and it, thus, becomes imperative that we pass this bill so that the appropriations can be made.

There were full and comprehensive hearings on H.R. 6359 and it was approved unanimously in both the subcommittee and the full committee, after adoption of a committee amendment to substitute the fixed amount of $1,500,000 in lieu of an open-ended amount as provided in the original text of the bill.

The Water Resources Council is making a valuable contribution to the development of coordinated comprehensive plans for the use of our water and related land resources throughout the en-

tire Nation. It is also demonstrating an ability to standardize procedures and standards among the several agencies involved in water resource development, thus reducing duplication and lost motion within the Federal establishment. In this sense the Council is paying its own way in the form of savings to other agencies and merits the support of all Members in passing this legislation to provide an adequate level of funding for subsequent years.

I, therefore, urge all of my colleagues to join with me in voting favorably on H.R. 6359.

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

Mr. Speaker, I rise in support of H.R. 6359, as amended and reported by the Committee on Interior and Insular Affairs.

The purpose of H.R. 6359 is to increase the amount authorized to be appropriated to the Water Resource Council for carrying out its administrative responsibilities under the Water Resources Planning Act.

The present statute, Public Law 89–80, limits the amounts authorized to be appropriated as follows: First, $500,000 annually to carry out the authorized functions of the Water Resources Council; second, $6,000,000 annually to carry out the authorized functions of the River Basin Commissions; and, third, $400,000 annually to administer the State grant program.

This bill, H.R. 6359, as amended by the committee, consolidates the amounts authorized to be appropriated for administering the Water Resources Council and the State grant program, and increases the combined amount from $900,000 annually not to exceed $1.5 million annually. In addition, the bill makes clear that the salaries and expenses of the chairman of the river basin commissions appointed by the President shall be paid from the funds appropriated for the operators of the river basin commission.

This legislation is needed to comply with the President's budget request for the Water Resources Council for fiscal 1972. There is no change in the budget request for planning grants to the States or the operation of the six river basin commissions. However, there is an increase in the amount needed for administration and coordination under the act. This increase will involve the addition of seven staff petitions and the amount necessary to cover the normal escalation in administrative costs.

Mr. Speaker, I urge the passage of H.R. 6259, as amended.

The SPEAKER. The question is on the motion of the gentleman from California that the House suspend the rules and pass the bill H.R. 6359, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

A BILL TO ABOLISH THE U.S. POSTAL SERVICE

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

Mr. CHARLES H. WILSON. Mr. Speaker, an old proverb states:

A foolish man may be known by three things: inflexibility of mind, change without progress, and mistaking friends for foes.

These conditions of mind can be overlooked in a man with ordinary responsibilities, but when they appear in a man with governmental responsibilities the Nation can suffer. Unfortunately, we have such a man in the Postmaster General of the United States, Winton M. Blount.

As a ranking member of the Post Office and Civil Service Committee and one of the original sponsors of the Postal Reorganization Act, I was appalled to hear the Postmaster General's testimony given recently before our committee on how he planned to run the new U.S. Postal Service. Through twisted reasoning, the Postmaster General has refused to bargain sincerely with the postal labor unions; has signed an unworkable agreement with the Corps of Engineers to build post offices; and, has issued a memorandum that attempts to identify Members of Congress as foes of the new Postal Service.

Mr. Speaker, I am sure that the House of Representatives, the Post Office and Civil Service Committee, and definitely this Member, never intended the Postal Reorganization Act, which created the U.S. Postal Service, to be interpreted the way Mr. Blount has chosen to interpret it. As a supporter of postal reorganization, I cannot stand by and watch this man destroy what so many of us worked so hard to achieve—a responsive, efficient, modern Postal Service.

My fears, Mr. Speaker, were shared this weekend by former Postmaster General Lawrence F. O'Brien when he commented on Mr. Blount's way of running the Postal Service. He said:

My hopes have been shaken by some disturbing events, some disquieting signs that could severely handicap the fledgling corporation even before it gets off the ground.

I am, therefore, introducing today legislation which will abolish the U.S. Postal Service by repealing the Postal Reorganization Act and establishing the former U.S. Post Office Department as an executive department of the Federal Government. Admittedly, this bill is only a vehicle by which our committee may start anew and, under the able leadership of Chairman DULSKI and the ranking Republican Member, the gentleman from Iowa (Mr. GROSS), can write new legislation that will establish the type of modern postal service we all desire.

At this time, Mr. Speaker, without objection, I would like to include in the RECORD testimony that I gave before the Subcommittee on Postal Service entitled, "In Support of a Congressional Investigation of the Contract Between the U.S. Postal Service and the U.S. Army Corps of Engineers" along with the provisions of my bill.

STATEMENT BY HON. CHARLES H. WILSON

Mr. Chairman, in January of this year a senior Member of Congress who happens to be a Republican gave a speech on the floor of the House entitled, "Postmaster General's Memo is a Piece of Fascist Nonsense." This distinguished Member went on to say, "Mr. Speaker, my initial reaction to Postmaster General Blount's January 12 memorandum was simply, 'Seig Heil.' I will not reveal my second reaction." This Republican Member of Congress was referring to an edict handed down by the Postmaster General of the United States. The Postmaster's memorandum of January 12, 1971, stated in part:

"It is mandatory that postal employees immediately cease any direct or indirect contacts with congressional offices on matters involving the Postal Service."

And later, he laid down a rule which states:

"In the event that a direct contact with a congressional office becomes necessary, it is to be coordinated in advance with the (new) Congressional Liaison Office."

Mr. Chairman, it is deplorable, if not a little bit frightening, when a high government official institutes a policy which attempts to deprive a large group of Federal employees of their constitutional rights by preventing them from taking their observations, recommendations, and grievances to their United States Congressmen—preventing them from petitioning their Congress. The United States Constitution guarantees the right of its citizens to petition their Congress and the Lloyd-LaFollette Act guarantees that this right applies to Federal employees.

In testimony before our Committee on Post Office and Civil Service, the Post Master General, Mr. Blount, stated that the Postal Act Reorganization did not repeal the right of a postal worker to petition Congress. Yet for some twisted reason, Mr. Blount does not seem to realize, or maybe chooses not to recognize, that his memorandum of January 12, 1971, is in direct conflict with the Constitution and the rights of our citizens who work in the Post Office Department. There is no reason for them to be subjected to a second class citizenship status. When the Postmaster General appeared before our Committee on March 11, 1971, he was questioned about his infamous memorandum along with his other anti-democratic techniques such as stamping Congressmen's letters written to the Post Office Department on behalf of a postal employee with the phrase, "in violation of Public Law 91–375." The Postmaster General made it clear at that time that he had no intention of changing his attitude on these matters.

His arrogance tested the patience of our Chairman to the point that he told the Postmaster General that the congressional liaison officers of the Postal Service would not be allowed into the Committee offices without specific invitation. It is a sad commentary on events when we have arrived at a point where the lines of communication between Congress and the Postal Service have completely broken down.

Mr. Chairman, today I would like to briefly discuss one example of how the Postmaster General's indifference to Congress and his stubborn refusal to follow the spirit of the law has endangered the success of the fledgling U.S. Postal Service. I am speaking about the contract that has been consummated by the U.S. Postal Service and the U.S. Corps of Engineers. As you are all aware, Mr. Blount has signed a contract with the Secretary of the Army, Mr. Resor, by which the Corps of Engineers would be responsible for the construction program of the Post Office Department.

Mr. Chairman, I would like at this point, with your permission, to place into the record copies of that agreement. I would particularly like to bring your attention to Section 2 entitled *Policy* which states in part,

"Public announcements and Congressional liaison would be the exclusive responsibility of the U.S. Post Office Department."

Mr. Blount, in his appearance before our Committee on March 11, stated that he had been considering the matter of contracting

with the Corps of Engineers "for well over 12 or 18 months." He then reluctantly confirmed that he did not bother to notify anyone of his plans and had just that morning sneaked off and signed the contract with the Army. If he had bothered to consult with our Committee, Mr. Chairman, it would have been immediately obvious to him that most of the Members of our Committee seriously question the advisability of using the Corps of Engineers to build post offices.

On the same day of the Postmaster General's appearance before our Committee, Mr. Chairman, you put into words what we were all feeling when you said,

"One of my great goals in postal reform was to give the Postal Service the freedom to wheel and deal the way Sears, Roebuck or any large company can do, so that you could go out and buy the land, contract for the buildings, keep an ongoing program of building, construction, and improvement in operations. It seems to me that the Corps of Engineers is probably subject to a lot of laws and red tape and delays that Sears, Roebuck is not subject to, and that the postal program might be far better off in-house doing this work. I am sure that Sears has an ongoing building program and tries to develop the expertise and has a department of facilities to keep this thing going. If we are going to get into more red tape and delays with the Corps of Engineers, it may well be a mistake."

You put your finger on exactly what we were trying to avoid. We were tired of postal officials coming before our Committee telling us that the reason they couldn't build more post offices faster and more efficiently was because of all the red tape they had to deal with. So we turned them loose, gave them the opportunity to develop their own in-house corps of experts to build their own post offices, yet, instead of doing this, they immediately contracted with another Government Agency which, of course, will force them to deal with more red tape. In other words, Mr. Chairman, they have traded old red tape for new red tape. Besides involving the post office construction program in a new form of red tape, the agreement with the Corps of Engineers troubles me in two other areas.

First, what is the Post Office Department going to do with their cadre of architects, engineers, planners and real estate experts? Are these highly trained experts going to lose their jobs? Are they going to be transferred to the Corps of Engineers or are they going to be twiddling their thumbs while the Corps of Engineers builds the post offices? I submit, Mr. Chairman, that it would be more efficient and less costly for the Department to expand its own capabilities using these experts as a nucleus rather than depend on another Federal bureaucracy.

The second disturbing aspect of the agreement with the Corps of Engineers is that dealing with congressional relations, I was astounded to find out that the Memorandum of Agreement with the Army Corps of Engineers was so written as to prevent Members of Congress from asking questions of the Corps' activities on behalf of the Postal Service without a postal congressional liaison officer being present. Just recently I contacted the Chief of the Corps of Engineers to review with him their mission in relationship to the Postal Service. I was told that I could not discuss anything pertaining to the Postal Service with the Corps unless a representative from the Postal Service was in attendance at the meeting. I have learned that even though the Corps has had similar agreements with other agencies of the Government, they have never before been required to agree to a ridiculous policy which prohibits them from discussing the work they are doing with Members of Congress. Upon discovering this strange situation, I, as a Member of the Armed Services Committee, immediately wrote to Congressman F. Edward Hébert, Chairman, Committee on Armed Services, requesting an investigation to determine the activities of the Corps of Engineers in relationship to its agreement with the United States Postal Service.

Mr. Chairman, in conclusion, I feel that all of us here believe that the Congress and the Postal Service are partners not enemies, and that in the long run the success of the U.S. Postal Service is dependent upon public support. Accordingly, it is very doubtful that Mr. Blount can gather public support for the Postal Service by going out of his way to alienate the peoples' representatives. I, therefore, strongly urge that the Post Office and Civil Service Committee take this problem in hand and force Mr. Blount to conform with the law as passed and intended by Congress.

Thank you, Mr. Chairman.

H.R. —

A bill to abolish the United States Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the United States Postal Service is hereby abolished.

(b) The Postal Reorganization Act is hereby repealed.

(c) The provisions of title 39, United States Code, as in effect immediately before the enactment of the Postal Reorganization Act are hereby reenacted and made effective.

(d) The former Post Office Department is hereby reestablished as an executive department of the Federal Government.

PROBLEM OF NARCOTIC ADDICTION AMONG ARMED FORCES

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

Mr. ROGERS. Mr. Speaker, I am today introducing legislation which we talked about last week to require the identification, treatment, and rehabilitation of thousands of men in our armed services who become addicted to narcotics while in the military.

Mr. Speaker, I am pleased that the Chairman of the House Armed Services Committee, the Honorable F. EDWARD HÉBERT, and the Chairman of the Committee on Veterans' Affairs, the Honorable OLIN TEAGUE of Texas, the Honorable LES ARENDS, the minority whip, is joining in the sponsoring of this legislation, as well as the distinguished majority leader, the gentleman from Louisiana (Mr. BOGGS), the majority whip, the gentleman from Massachusetts (Mr. O'NEILL), the gentleman from Florida (Mr. SIKES), the gentleman from Florida (Mr. BENNETT), the gentleman from Alabama (Mr. NICHOLS), the gentleman from Georgia (Mr. BRINKLEY), the gentleman from California (Mr. GUBSER), the gentleman from Ohio (Mr. WHALEN), the gentleman from West Virginia (Mr. MOLLOHAN), the gentleman from North Carolina (Mr. LENNON), the gentleman from Florida (Mr. FASCELL), the gentleman from Georgia (Mr. HAGEN), the gentleman from New York (Mr. KING), the gentleman from Florida (Mr. HALEY), the gentleman from Indiana (Mr. BRAY), the gentleman from California (Mr. MCFALL), the gentleman from Alabama (Mr. ANDREWS), the gentleman from Massachusetts (Mr. BOLAND), the gentleman from New York (Mr. MURPHY), the gentleman from Florida (Mr. PEPPER), and the gentleman from Ohio (Mr. CLANCY). There is an estimated total of 20,000 and 30,000 men in Vietnam who will return home addicted to narcotics. Very few of these men under the present setup will be identified as addicts unless such legislation as we have drafted is enacted.

And those who are identified are not subject to proper treatment and rehabilitation. They are, if identified, given physical withdrawal and then discharged. The chances of them staying "clean" after such limited treatment is very slim at best.

I think there are few here today who will not agree that we are in the midst of a drug crisis and one of the biggest problems is that we cannot find the central source to attack. We cannot find the central point where these people first pick up the habit. If right now we knew of a place where 1,000 or 5,000 people were being addicted to drugs, we would spare no expense in going to that place to attack the problem.

But we know that Vietnam has, over the past 5 years, been a spawning ground for drug abuse of all natures, ranging from marihuana to the addicting hard narcotics such as heroin. Yet we have done nothing to attack this problem at its source.

The Customs Division of the Department of the Treasury has announced that it will search all packages from military bases overseas to halt the import of narcotics. But the real problem is the individual who carries not only the narcotic, but the habit which makes him a slave to the underworld once he reenters the civilian population. We allow the addict to go undetected.

Thus we are turning into our society a man who will break the law, will steal to support a habit which may cost him up to $200 a day and eventually lead to his total destruction as a member of our society.

And completely aside from allowing this man to join the ranks of crime, we are turning our backs on our responsibility to see to it that this man, who has served his country in time of war, is returned to his home in the same, or nearly the same, condition that he left it.

If this man has typhoid, we would treat him, to help him and to protect society from this dread disease. Yet drug addiction is just as deadly and almost as contagious as typhoid.

One addict may involve as many as 100 others.

My bill will call for periodic examinations to detect the use of narcotics, and if a man is identified as an addict, then it will require the military to treat this man in either a military facility or one which is capable of proper treatment, such as the Veterans' Administration or the community mental health clinics which HEW operates.

We already know that the problem is not a new one. Surveys done by the VA indicate that 25 percent of all addicts now being treated in the various civilian clinics and hospitals, are veterans. Based

on the conservative estimate of 250,000 addicts now in the United States, this would indicate that we have approximately 50,000 addicts who are veterans. This is aside the anticipated return of between 20,000 and 30,000 veterans who are addicts.

Last year the military awoke to the realization that drug addiction is a problem. They contracted with the Veterans' Administration to open clinics across the Nation. To date, only five have been opened and these have been flooded. I intend to offer an amendment to the appropriation bill this year to provide proper funding to accelerate the program so that by the end of this calendar year we will have 30 clinics operating instead of the planned 17.

I have been informed by VA officials that they see an immediate need for 60 clinics with a capability of treating 12,000 veteran addicts by 1973. That is the VA estimate of how many will seek help.

We have an obligation to our servicemen to see to it that they have the proper medical care to break the narcotic habit before they leave the service. And I hope that my colleagues will join with me in seeking speedy passage of this legislation.

THE UNITED STATES IN SPACE—TECHNOLOGICAL BENEFITS AND ACHIEVEMENTS

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

Mr. FREY. Mr. Speaker, this is the fifth in my series of speeches through which I hope to inform my colleagues on certain aspects of the national space program and expose them to greater detail than they might otherwise encounter.

Today I want to discuss the technological benefits that have come to the American people and indeed people all over the world from 12 years of exploring space. As a preliminary factor, it must be understood that in addition to a national and profound reaction to Sputnik I in 1957, the enactment of the 1958 Space Act also involved to a great degree a considerable amount of faith by the Congress and our constituents that a national program of space exploration had a potential for human benefits far beyond estimation. That faith was created out of the wisdom and broad experience of witnesses who were leaders in industry, science and education. These were men many of whom were only a short time removed from the prodigious outpouring of science and technology released by the horrendous experience of World War II.

Have those benefits been realized, are they having an effect on our daily lives? I think I can show irrefutably that they are, and, furthermore, that this is only the beginning.

I think it is fairly accepted that, after all the superficial glamor and considerable naivete have been eliminated from an evaluation of the program, the principal and fundamental source of all the benefits we have achieved is simply knowledge. But it has been knowledge of vast breadth and depth, encompassing complexities of science and applied technology never before undertaken in a unified Government/civilian program in time of peace.

New knowledge has been acquired that is both tangible and intangible, with perhaps the latter the more important. We have now in hand a whole new body of information on our universe; a total look at our world, the spaceship we all live on, we never could have before; we have discovered and are trying to understand the properties of our celestial companion, the moon. As one sage put it:

> The space program has enlightened the mind and ennobled the spirit of man.

That is all very well and good to know. But I am sure everyone on the floor today can mentally hear the majority of our constituents saying, "That's great, but look here, I don't think I want my tax dollars to be used by the Government to enlighten my mind or ennoble my spirit. I want to hear what the space program has done for me and my family, to improve my life and make me more secure." That is the crux of it. And there are answers to be given.

Let me talk about the intangible benefits first. The history of civilization has shown and proven that any country that finds itself without great constructive national challenges will find itself at the doorstep of decay and dissolution. That is immediately evident in the course of events this Nation has experienced since its founding. The opening of this wilderness, the submission of the land to meet our people's needs, the great surge of industry and technology, all have contained the challenges that have kept the United States dynamic. The space program is also of the same character, one which we have been privileged to witness and be part of. There is no question that the space program has captured the excitement, the imagination, and the pride of the American people by the successes we have achieved. It is an ongoing demonstration of the determination of this country to be first in space.

In a more immediate vein, what has the space program done for our educational systems and standards? There is no doubt that the demands placed by NASA upon institutions of higher learning to provide new science, new applied technology, and a new view of the physical world have forced practically every scientific discipline to reach for new levels of capabilities and understanding that would not otherwise be. Do you not think such efforts have had a direct reflection back into university curriculum and scholastic achievement? Do you not think there has been an indirect but nonetheless forceful impact back into secondary schools? This has happened. It is having an effect throughout our society in a wide scope of endeavor not related to space exploration, but upon the breadth of our economy.

Another intangible has been the ability to find solutions to problems of overwhelming complexity. In the national program to explore space we can see the successful achievement of management techniques to accomplish what would seem almost impossible. Involved in going to the moon, in sending spacecraft out into deep space, in placing satellites in earth orbit was the managing of the efforts of 400,000 people in industrial and academic organizations, and the prudent utilization of more than 20,000 industrial firms. We operated our program in the bright glare of world attention where failure to manage properly would become quickly apparent. And the program followed a plan that was laid down 10 years before. That management talent is available right now to attack other almost impossible problems such as air pollution, waste disposal, water pollution, and mass transportation.

NASA is continuously contributing to the technological base from which the solutions to all these problems must be drawn. Can we, at this moment in time, perceive what technology, what science we must have in order to solve these problems. Not really. No leadership group, whether in Government or in the private sector, can be that smart. The only course open to us, in practical terms, is to maintain a viable, progressive tempo of research and application that will continue to add to the scientific and technological inventory we have already assembled through the space program from which we can withdraw the components of the solutions plaguing our Nation today.

Now, let's turn to the tangible benefits. And they are legion. It is not at all possible to enumerate and describe much more than a sampling. I have already expanded on the benefits we and the rest of the world are receiving from the unmanned satellite programs, specifically the weather, communications and navigation satellites already functioning and serving the public.

Consider what NASA technology has done for business. An advance that came out of research and development in astronaut couches led to the invention of an energy absorbing device. NASA waived title to the invention so that the contractor could incorporate it in a highway barrier system. This has been tested by the Bureau of Public Roads and has been installed by a number of States and localities. A major automobile company has purchased an interest in the company and is testing the invention as well as other proposals for reducing the collision damage in the type of accidents that account for 40 percent of the property losses underwritten by automobile insurance companies.

Another, when production of the large booster casings used by NASA was completed, electromagnetic hammers designed and developed for use during fabrication were loaned to other companies for testing and possible application.

One company is using a modified version in the production of wings for the jumbo Boeing 747 commercial transport, another company is using it for the fabrication of the trijet L–1011 wing sections, and a third company is using another modified application for the production of fuselage and wing sections for military aircraft.

One company, originally formed to

take advantage of NASA's requirements for previously unavailable high-energy storage technology in electrical capacitors, now realizes two-thirds of its sales in components manufacturing and system engineering in other fields. Less than 10 percent of its present sales activity is related to NASA requirements.

Packard Bell Electronics developed a ceramic insulation material, PSC Durock, to withstand the extreme heat of combustion of exotic fuels. It is now being used in high-temparature applications in the civilian atomic energy program.

Fluxless aluminum soldering, an outgrowth of space research, is being marketed and used in preparation of sandwich core of structural panels and mass production of automobile radiators.

Labor-saving pots and pans are now coated with a plastics material developed to protect spacecraft from the extreme heat of launch and reentry.

Sealants developed for the seams of spacecraft are being used in caulking tiles. Car windshields and rear windows are being sealed with a product made from solid rocket fuel.

Railroad tankcars weighing one-half as much as steel cars are being produced from the lightweight plastics developed for NASA for use in its rockets.

Ocean vessels are able to increase cargo tonnages by using higher strength structural steels and packaging employing lightweight reinforced plastic—RP—containers.

Among the many computer systems first designed for space vehicles is Honeywell's self-adaptive autopilot, a computer that adapts automatically to compensate for varying flight conditions such as altitude, speed, and weight. This spacecraft technology, directly transferred to a light twin-engine aircraft, helps reduce the possibility of pilot error and makes small craft flying significantly safer by adapting to unforeseen flight conditions.

So much for business. How about management contributions? Here's one. The city of Los Angeles turned to space program management techniques for help in meeting the increasing demands on police, fire and ambulance services. In order to cope with the burden already imposed on their overtaxed services, city officials decided that existing procurement procedures were wholly inadequate for funding such complex systems management and engineering research. NASA organized and presented an orientation program to familiarize officials at the various levels of municipal government with the techniques it uses on proposals received. The result was that the city of Los Angeles adopted NASA techniques to meet its needs.

The medical profession has undeniably benefited from NASA research in a most dramatic fashion. A team of Grumman engineers, who were intimately involved in the life support systems aboard the Lunar Excursion Module, visited a prominent medical institute in Texas that specialized in body organ transplants. They were struck by the fact that the scant number of possible donors of hearts were often some distance from the recipients. Out of their knowledge of the technologies applied to the Apollo program they were able to devise an instrument that was transportable, and that would keep a heart alive and healthy for days while being brought to the patient who needed it. It also turned out that the instrument was a very valuable tool in studying the processes of body organ rejection which has so often marred the successful transplantation of other organs, such as kidneys.

Another application is the utilization of a transducer which measures pressure differentials over the surface of small models in wind tunnels. This technology has been licensed for commercial development as a cardiac catheter in medical research. Because it is extremely small, this sensor can be inserted with a standard hypodermic needle. After modifications and refinements now being made, they will be used as a standard device in the National Heart Institute.

Sensors originally developed to measure the heartbeat, blood pressure, and other conditions of spaceborne astronauts are being installed in hospitals to monitor patients' conditions continuously.

Along the same lines, a new electrostatic camera, developed for space vehicles, produces moving or still instant pictures without any processing. This camera can focus on a patient in critical condition and can keep vital photographic records instantly available for physicians. Transducer-transmitters that relay intestinal data are currently in use, and doctors now anticipate a battery-powered television system small enough to be swallowed, which would transmit pictures from a patient's stomach.

Aids to the blind and deaf are also coming from space research. The principle of alternating panoramic fixation, used in satellite camera and lens systems, was applied to the development of new glasses with multidirectional lenses. General Data Corp., which develops instruments for spacecraft for another use for restoration of hearing to the deaf by surgical implantation. Eye surgery with a pinpoint of intense light from a laser has been accomplished successfully and Kollsman Instrument Corp. indicated that the laser can be used in eye tumor removal, retina welding, and brain surgery.

For example, an electronic radar system is being developed and perfected by an aerospace firm as a "bionics equivalent for the blind." Many other firms are doing similar research and development. General Electric's program to utilize electricity directly from the cells of the body, in addition to research being done by other groups, is expected eventually to combine in a "final human-radar mechanism for the blind, powered by the wearer's own body."

Pressurized space suits developed by General Electric Co. are helping bedridden stroke victims and invalids to be ambulatory.

Ultrafast drills, with minute ball bearings developed through space research for satellite equipment, are available to dentists for almost painless dental work.

Use of supersensitive infrared detectors is proving useful in the early detections of cancer.

The examples I have cited above can be grouped into two general fields: industrial and medical. I think it is also appropriate to recognize that the total fields in which space technology spinoffs have had impact are as diversified as the nature of the benefits themselves. For example, in the field of materials, ultrathin high strength aluminum foil developed for communication satellites is used for packaging quick-freeze dried food and sensitive pharmaceuticals. Another spinoff is aluminized plastic only one-half a thousandth of an inch thick which was created initially for superinsulation in space and is now being sold commercially for use in blankets for recreational and emergency rescue purposes. The full-size blanket can be folded into a pocket size hankerchief.

In transportation, automotive brake cylinders are built and tested under techniques devised for testing the hydraulics system of the Saturn launch vehicle. Also, major inroads in air traffic control techniques have been devised as a result of the navigation technology developed under the lunar landing program. The new systems provide 60 times greater accuracy than previous systems in terms of plotting aircraft position.

In the field of energy and natural resources, thermal mapping and infrared photography from space have detected and plotted fires, classified vegetation, and detected crop disease, insects and insect migration. In addition, much of the nuclear powerplant technology to produce electrical power and make fresh water from the sea has had its origin in the space program.

In urban affairs, aerospace systems analysis techniques have been applied to permit the computer simulation of major criminal justice systems to determine how well the system is functioning and what would be the impact of changes. Perhaps of greater significance in this field is the application of aerospace techniques to the new and revolutionary low-cost methods for the construction of low-cost housing.

In meteorology, since the launching of our weather satellites 10 years ago over one-half million usable pictures have been produced which have identified, observed, and tracked 93 typhoons and 30 hurricanes. Twenty-five hundred—2,500—important storm warnings have been broadcast worldwide.

With respect to the field of communications, I have already discussed the impact of satellite communications on our daily lives, but there are many other additional benefits. For instance, a battery-powered TV camera with a weight less than a pound and a size equivalent to that of a pocket transistor radio has been developed and is now being sold on the commercial market.

These benefits are indicative of the more than 10,000 total identifiable technological spinoffs which the space program has provided throughout the past decade. And as lengthy and impressive as this brief listing has been, I have not even touched upon the expected benefits in the field of space manufacturing, ag-

riculture and forestry, geography and geology, ecology and pollution control, water resources and marine species, and atmospheric sciences, in addition to even further benefits in the fields previously highlighted.

I could go on and on citing example after example in documenting benefits that have been or will be applied in the many broad areas I have mentioned. But the important thing to realize and to convey to the American people is that their investment in space has and will continue to pay off in unexpected and far more valuable terms than can ever be calculated or anticipated. These benefits have resulted in lives saved from natural and human catastrophes, they have provided for magnificent economic gain in the public and private sectors, and they have significantly expanded the vital knowledge man needs for his survival within the framework of civilization. These benefits are dividends that promise a continuing and ever-increasing return on our space investment for the improved welfare of mankind both today and tomorrow.

POSTAL SERVICE DOES NOT JUSTIFY RATE INCREASE

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

Mr. ABERNETHY. Mr. Speaker, postage rates went up yesterday, the largest advance at any one time in all history of the postal service.

We Americans will now pay the highest rates ever for the poorest service in Government, and the poorest mail service since the days of the Pony Express.

Take a look at the increases. First class mail up 2 cents, 33⅓ percent; air mail up 1 cent, 10 percent; post cards up 1 cent, a 20-percent raise; and second and third class rates up between 20 and 38 percent.

Mr. Speaker, airmail service between points in my district and Washington frequently requires 4 days and sometimes more. On running a test I have found that it is no faster than regular first-class rates. Heretofore newspapers were delivered from the District the second day after publication. Now the earliest delivery is 4 days after publication and frequently delivery time is anywhere from a week to 10 days. This morning, May 17, I received home newspapers at the office which were printed and placed in the mails on May 6, and that, Mr. Speaker, was 11 days ago. And quite often the newspapers are never delivered at all.

As for parcel post, well, one should never expect the delivery of a package under 10 days to 2 weeks, and oftentimes more.

This is the sorry and shoddy type of service for which postal authorities of our Government have just gouged postal patrons to pay increased rates from 10 to 38 percent. In preparation for these tremendous and unwarranted rate increases, authorities in the postal service urged postmasters across the Nation to lobby patrons with that old shopworn argument that has always heretofore been resorted to, that is, that notwithstanding the increases, postal services are still a bargain. Well, this argument is now nothing more than a lot of malarkey.

There are no bargains at the post office windows. And the service remains where it has now been for a long, long time—the poorest in Government.

In the last 2 or 3 years we have heard much about taking the postal service out of politics. Well, Mr. Speaker, if current service is what their so-called nonpolitical considerations and efforts are bringing us, then let us turn back the pages and put it back in politics. It was much better that way.

LET THE DEMONSTRATORS BE RESPONSIBLE FOR THE DAMAGE THEY CAUSE

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

Mr. SIKES. Mr. Speaker, I have today introduced a bill to bring to account those who spread havoc and filth in the streets, cost the taxpayers millions of dollars, and who are never held accountable for the damage and destruction or the cost.

I refer to those such as have been in Washington these past weeks, creating a requirement for police to work overtime, for troops to be stationed here from posts far away, for cleanup crews to redouble their efforts, and for additional crews to wipe painted obscenities from public buildings. It is estimated that this type of unwanted expenditure by the Federal Government in recent disturbances may be as much as $2½ million. This has been necessitated by those who took over the public parks, burned benches, dug holes, spread their filth across the grass, damaged private property, and hampered the normal activities of Government and business.

These same troublemakers now have been allowed to proceed on their way without making a single contribution toward the satisfaction of an account which may well run even higher than the amount estimated. It was obvious that few, if any, of those who were here have ever made a significant income tax contribution—or any other contribution, for that matter—to the United States. In fact, some were begging for coins during the course of their demonstrations here.

The bill will achieve a simple thing, Mr. Speaker. It will require that no permit for demonstrations or camping on public grounds in the District of Columbia will be issued without the posting of a bond or an insurance policy sufficient to cover damage, restoration, and police protection during the activity.

People cannot be allowed to show their disdain for the American system to the point where they disrupt trade, drive away tourists, and interfere with orderly pursuits in this city by constant harassment, demonstrations, and destruction.

Those who engage in truly peaceful demonstrations will not be penalized by my proposal for their bond will be slight. But those who seek to pull down our Government and obstruct its programs by any means, while they will not be successful, must at least pay for the damage they do.

Certainly by now, the Police Department of Washington has enough expertise to determine reasonable costs for these demonstrations, and to those who will plead poverty, let them turn for funds to those in Hanoi, Peking, and Moscow who, for the past weeks, have stood on the international sidelines and cheered such efforts.

Mr. Speaker, I am joined in the introduction of this bill by Representatives STEED, HALEY, SLACK, YOUNG of Florida, BENNETT, CEDERBERG, and CHAPPELL. We urge speedy consideration of this measure.

TROTSKYITE COMMUNIST MOVEMENT

(Mr. ICHORD asked and was given permission to address the House for 1 minute, to revised and extend his remarks, and include extraneous matter.)

Mr. ICHORD. Mr. Speaker, I have in the recent past called attention to the fact that the National Peace Action Coalition—NPAC—one of the major organizations which took part in the recent antiwar protest demonstrations in Washington, D.C., was known to be operating under substantial Trotskyite Communist influence. As a matter of fact, during my remarks on the floor of the House last April 6, I pointed out that of the NPAC's five national coordinators, four were known to be affiliated with the Socialist Workers Party, a Trotskyite Communist organization and that the NPAC was actually serving as the SWP's action group in carrying out massive antiwar demonstrations.

Many sincere citizens who desire peace have associated themselves with the NPAC. While many of our citizens are aware of the objectives of the Moscow-controlled Communist Party in this country, few have any knowledge about the nature of the Socialist Workers Party. Many older Americans have forgotten what the Trotskyite movement is and many young Americans were never taught about it in the first place. It is with the fervent hope of arousing awareness and understanding of the Trotskyite movement, that I am today bringing attention to this particular movement. This is by no means a comprehensive treatment, but it hopefully will serve to give an insight into the subversive nature of the Trotskyite movement.

Trotskyite organizations are militant revolutionary "splinter groups" based on the theories of Marx, Engels, and Lenin as interpreted by Leon Trotsky rather than Joseph Stalin. They are referred to as "splinter groups" because they have broken away or splintered from the mainstream of the Communist Party, USA, usually over the interpretation or implementation of basic Marxist-Leninist ideology.

The international Trotskyite Communist movement was founded in the 1920's by Leon Trotsky, whose real name was Lev Davidovich Bronstein. With Lenin, he was a leader of the Russian revolution long before Joseph Stalin rose from

his relatively obscure position as an organizer of riots. Trotsky was more internationally minded than most of the leadership of the Russian revolution and the imminent world revolution was more of a reality to Trotsky.

After Lenin's death in 1924, a struggle for power soon took place in Russia between Stalin and Trotsky. This struggle was waged around a question of policy. Trotsky argued that communism could not be established with any lasting success as an isolated phenomenon in one country alone. Therefore, he reasoned, the Communists had to work for a world revolution. Stalin, however, was firmly convinced that communism in one country—Russia—was feasible and that it was more important to secure communism at home first before attempting worldwide revolution. Stalin was successful in swaying the Russian Politburo to his views.

Shortly after Lenin's death Stalin rose to the position of General Secretary of the Russian Communist Party and used his position to undermine and isolate Trotsky driving him from Russia into exile in Turkey. There Trotsky was so hounded by Stalin's agents that he was forced to flee to France.

During his stay in France, Trotsky laid the foundation for a center of the worldwide Trotskyite movement. At a constituted assembly of 21 followers at Paris in 1938, the Fourth International was founded. The founders were a minor but highly articulate group recruited mostly from intellectuals, who supported Trotsky's program of world revolution and the establishment of "pure communism." The Trotskyites believed that Stalin had betrayed and misled the working class movement, and it was necessary for them to construct an alternative leadership on a world scale capable of leading the struggle for "pure communism." The organization was called the Fourth International primarily to distinguish it from the Communist Third International which was directed from Moscow.

The roots of the Trotskyite movement in the United States dates back to the summer of 1928, when United States Communist Party Leader James P. Cannon, while attending the Sixth World Congress of the Communist International in Moscow, became converted to the ideas of Trotsky, who had by that time broken with Stalin and who was now expounding his own doctrine of worldwide "permanent revolution." Upon his return to the United States, Cannon became active in promoting the Trotskyite position within the Communist Party. This led to the expulsion of Cannon and a small group of his followers from the Communist Party in October, 1928.

This small Trotskyite faction took refuge in the Socialist Party and soon became embroiled in a battle for control of the Socialist Party. This resulted in the ouster of Cannon and his followers. After this traumatic event, Cannon and his Trotskyite followers founded the Socialist Workers Party on January 1, 1938.

The Socialist Workers Party has continued to function since that time and is currently the largest and most militant Trotskyite Communist organization in the United States. It was the first major Marxist-Leninist organization to oppose the Communist Party, USA, for the right to lead an American Communist revolution.

At the time the Socialist Workers Party was founded, Trotsky was residing near Mexico City, where he had been granted asylum by the Mexican Government. However, the hatred between Stalin and Trotsky was irreconcilable. Trotsky alive was a constant threat to Stalin's power and as Trotskyite groups were established in one country after another, the danger of counter-revolution loomed as there were many Trotsky sympathizers in Russia. From his sanctuary in Mexico, Trotsky continued his severe criticism of the Stalin regime, wrote his numerous dissertations, and directed his far-flung Trotskyite organizations. Trotsky continued these activities until August 20, 1940, when he was assassinated by Ramon Mercader, an agent in the Communist secret police, who was strongly suspected as having carried out Stalin's personal order.

The bloody feud between Stalin and Trotsky sowed seeds of bitter hostility between the Moscow-line Communists and the Trotskyite Communists. To the Trotskyites, Stalin has corrupted the original teachings of Marx and Lenin, while the Moscow-line Communists charged the Trotskyites as being "splitters."

The basic philosophy of the Trotskyite movement is that only a violent revolution can destroy capitalism and that the Soviet Union is a "degenerate workers state." The Trotskyites also believe that all political groups, other than their own, are counter-revolutionary and must be destroyed.

The Socialist Workers Party currently stands for "a new radicalization of the working class" which will lead to a revolution to end the alien rule of "government of money." It espouses the "international solidarity of the working class" and supports the principles of the Fourth International, founded under Trotsky's guidance in 1938, although the Socialist Workers Party dissolved its formal ties with the Fourth International when the Voorhis Act was passed in October, 1940. In the Sino-Soviet ideological controversy, the Socialist Workers Party has expressed critical preference for the more militantly revolutionary stance of Communist China.

The Socialist Workers Party maintains its national headquarters in New York City. Its key leaders include James P. Cannon, national chairman; Farrell Dobbs, national secretary; and Jack Barnes, national organizational secretary.

The Socialist Workers Party has run its own slate of candidates for public office. During the last national election, Fred Halstead, a member of the SWP national committee, who incidentally is one of the key leaders of the National Peace Action Coalition, was the Socialist Workers Party candidate for the office of President of the United States.

The primary objective of the Socialist Workers Party in the antiwar movement is to maintain the independence of the antiwar movement from "capitalist political parties;" to maintain the line of immediate withdrawal of U.S. forces from Indochina; and to lay the groundwork for building massive antiwar mobilizations with each succeeding mobilization being larger than those that have already occurred.

The youth affiliate of the Socialist Workers Party is the Young Socialist Alliance, which was created in 1957, and became a national organization in 1960. Today, the Young Socialist Alliance is the largest and best organized revolutionary youth group in the United States. It has established some 50 chapters throughout the United States, primarily on college campuses and in high schools. It has more than doubled its size in the past 2 years. Over 1,000 members and observers were in attendance at YSA's national convention held in December 1970 at Minneapolis, Minn.

In analyzing the success of the Young Socialist Alliance, as compared with the setbacks suffered by the youth group of the Communist Party, USA, Larry Siegle, YSA national chairman, in a statement to the press in September 1969, explained that it was the YSA's understanding of the nature of the present youth radicalization and the need to build a revolutionary socialist youth group which was at the basis of YSA's outstanding success in building its membership.

It is also noted that the Trotskyites have been successful in penetration of youth groups because they have played on the political immaturity of some of the youths, who, in addition, have only a very vague notion of Trotskyism and its true objectives. In establishing themselves among teenagers, the Trotskyites assure the youths that the revolution is "just around the corner" and only the Trotskyites have the true revolutionary program.

A flyer distributed by the Young Socialist Alliance last year noted that it stands for "human needs above private profit" and implored youths to:

> Join us in the fight for a better world—there is nothing better you could do with your life.

It is important to note here that another major Trotskyite organization operating in the antiwar movement is the Student Mobilization Committee, which has its headquarters in New York City. The Student Mobilization Committee, popularly referred to as "Student Mobe," operates several regional offices on various college campuses across the Nation, and is currently under complete control of the Socialist Workers Party and, its youth affiliate, the Young Socialist Alliance.

In the way of background, the Student Mobe was formed in 1966 as a result of the dual efforts of the Communist Party, USA, and the Socialist Workers Party. However, in 1968, as a result of a tactical dispute between these two organizations, the Communist Party, USA, withdrew and left the Socialist Workers Party in complete control of the Student Mobe.

The "Militant" is the official Socialist Workers Party newspaper. Published weekly it is generally regarded as more readable and better edited and published

in a far more impressive format than the official Communist Party, USA, newspaper.

The Communist Party, USA, in its continuing struggle with the Socialist Workers Party has recently charged this Trotskyite organization as being "inveterate splinters and disrupters" and has claimed that these traits are deeply rooted in the Trotskyite theory. Specifically, the Communist Party, USA, has charged that the Trotskyites are "objective agents of the Central Intelligence Agency." In this connection, the Communist Party, USA, claims that the line of the CIA is to divide the world's working classes and national liberation movements from the Soviet Union and that the Trotskyites are carrying out this line. On the other hand, the Trotskyites claim that the Communist Party, USA, has long ceased to be a viable revolutionary force and has sold out to capitalism. However, both organizations have recently worked together in antiwar demonstrations more or less tolerating each other for tactical purposes.

Although FBI Director J. Edgar Hoover has recently testified that the Trotskyite's main goal is to bring about a violent revolution in this country, the Socialist Workers Party has vigorously denied that it favors such action. Instead, the Socialist Workers Party claims it merely seeks to convince the majority of American people that "socialism" is necessary and desirable. However, at the same time it warns that the U.S. ruling class will resort to the most extreme violence to try and prevent a democratic transition to a "socialist society" and that the majority of the membership of the Socialist Workers Party will have to be prepared to defend themselves against this violence.

The very name of the largest Trotskyite Communist group, the Socialist Workers Party, is deceptive. Most news reporters seem to be either incapable of, or not interested in, sorting out the differences between the several communist parties operating in the United States. They seem to have particular difficulty in distinguishing the difference between the Socialist Labor Party—(nonrevolutionary followers of Daniel DeLeon)—the Socialist Party of America—(favors peaceful and democratic transition to socialism)—and the subversive Socialist Workers Party. Quite often members of the Socialist Workers Party are, merely referred to in the press as "socialist," when in truth they regard the Communist Party, USA, as being too mild, and follow the guerrilla warfare ideology of Red China far more closely than any of the mandates of the Moscow-controlled Communist movement. The Socialist Workers Party operates under strict discipline, supports Cuban dictator Fidel Castro and works at implementing the Trotsky theory of permanent revolution.

Heartened by an atmosphere of continuing public complacency and encouraged by its successes in organizing massive antiwar protest demonstrations, the Trotskyite movement is today an ambitious and destructive instrument of subversion operating within our midst. The Trotskyite Communists are attempting to use the antiwar movement, as they do everything else, to promote their own interests rather than the welfare of those to whom they direct their agitation and propaganda. The Trotskyites may collect funds ostensibly in behalf of antiwar activities in their publications, but behind all of this effort is a clear-cut primary interest in promoting the Trotskyite brand of communism. The Congress and the American public must be constantly alert to the threat the Trotskyite communist movement poses to the internal security of our Nation.

DEATH PENALTY SUSPENSION ACT

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

Mr. CELLER. Mr. Speaker, I have today introduced a proposed Death Penalty Suspension Act. The purpose of the measure is to give State authorities and the Congress more time in light of recent Supreme Court decisions to reexamine constitutional and policy issues surrounding the continued use of the death penalty. The bill would stay executions under Federal and State law for 2 years.

This measure constitutes an exercise by the Congress of its powers under section 5 of the 14th amendment. The power is most clearly established in the field of equal protection of the laws with respect to discriminations based on race, and there is reason to believe that the death penalty has been the subject of discriminatory application. Furthermore, the bill guarantees due process of law which, as the Supreme Court has already held, incorporates the eighth amendment's prohibition of cruel and unusual punishment.

A wide sampling of the opinions of distinguished constitutional scholars throughout the Nation indicates, without exception, that the enactment of a 2-year suspension of the death penalty is within the constitutional powers of the Congress. Moreover, I believe there is an overriding wisdom in enacting a national moratorium today. It is an appropriate way to promote a thoughtful and full reexamination of the constitutional and policy issues involved. And since the Supreme Court in the Crampton and McGautha decisions has recently rejected several procedural challenges in death penalty cases, there may be a renewal of efforts to carry out many of the more than 640 executions that have been stayed during the past 4 years. If the Congress or the States determine to abolish capital punishment, there could be no reparation for those who are executed in the meantime. These dead men will have suffered irreparable injury in the most telling sense. They would be beyond the point of no return. Thus, a nationwide stay will preserve the status quo while the process of fact gathering and reappraisal is underway.

Although there are many hopeful signs that renewed efforts to abolish the death penalty in several States will be successful, Congress must not abdicate to the courts or to the States its own responsibility for assuring the safeguards of the 14th amendment. Some may say that during this period of ferment, while serious constitutional questions await final decision, neither the States nor the courts are likely to impose the ultimate penalty. But no one can read the future with certainty. By enacting a nationwide stay, we would also relieve already congested courts of the burden of having to review hundreds of applications for stays of execution from condemned prisoners.

The High Court has said that the constitutional prohibition against cruel and unusual punishment must find its meaning from evolving standards of decency that mark the progress of a maturing society. But regardless of one's view on the ultimate question, the specter of hundreds of executions—after a moratorium of almost 4 years—must be avoided. Americans have witnessed enough of killing.

This measure will assure a period for calm and rational deliberation and I am confident that it will receive wide support both in the Congress and among State authorities.

The text of the bill is as follows:

This Act may be cited as the "Death Penalty Suspension Act."

SEC. 2. Congress hereby finds that there exists serious question—

(a) whether the infliction of the death penalty amounts to cruel and unusual punishment in violation of the eighth and fourteenth amendments to the Constitution; and

(b) whether the death penalty is inflicted discriminatorily upon members of racial minorities, in violation of the fourteenth amendment to the Constitution,

and, in either case, whether Congress should exercise its authority under section 5 of the fourteenth amendment to prohibit the use of the death penalty.

SEC. 3. On the basis of the above findings, and in order to preserve the status quo and to prevent irreparable injury pending further investigation and consideration of the above questions by Congress and by the appropriate State authorities, Congress declares that, pursuant to its power to enforce the fourteenth amendment to the Constitution, it is necessary to provide an interim stay of all executions by the United States or by any State or any subdivision thereof for a period of two years.

SEC. 4. No sentence of death shall be carried out by the United States or by any State or any subdivision thereof for a period of two years from the date of enactment of this Act.

THE PRESIDENT'S APPROACH TO THE FARM PROBLEM

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

Mr. BURLISON of Missouri. Mr. Speaker, one of the leading daily newspapers in my district, the Daily Dunklin Democrat of Kennett, Mo., in its edition of May 10, 1971, contained an extremely incisive editorial with respect to the President's approach to the farm problem. This problem has reached disastrous proportions for many of my farmers.

At about the time of the writing of this editorial, the administration did begin to show some movement salutary to the farmer. We are hopeful that these movements will be accelerated.

The editorial above referred to is as follows:

DISAPPOINTING FARM NEWS

Southeast Missourians could certainly take little comfort in President Nixon's most recent pronouncements on his administration's plans for improving the lot of farmers in the months ahead. In a rather brief statement the other day, Mr. Nixon for once made it perfectly clear that the grandiose plans he promised for American agriculture during the campaign of 1968 were little more than election-season fodder.

Despite what some had hoped for, the President failed to take into account the farmers' plight as a result of inflation and spiraling costs and said nothing about increased parities. Instead, Mr. Nixon insisted that the brightest future for agricutlure lies in an eventual return to a "free market."

As if this weren't enough, the President failed to mention his plan for merging the Department of Agriculture into a larger department that will certainly not be agriculturally oriented. In fact, many contend the basic purposes now being pursued, with varying success, by the Department of Agriculture will be completely sublimated in the new department that will include diverse goals as community development and consumer protection.

The Wall Street Journal, in an editorial last week, noted with considerable satisfaction the "trend" of the Nixon address. Whenever the Journal likes a farm policy, you can bet the farmer is going to be stung. Said the Journal: "Farmers, themselves, who would have greater freedom of operation, might be surprised at the benefits (of a free market for all farm products) they would enjoy, along with the consumer."

Well, the Wall Street Journal may be in favor of cutting loose subsidies and protection for American agriculture, but the voice of the nation's business and banking community is not about to suggest the same trend for large corporations and large banking institutions.

The Journal thinks the trend of the Nixon farm policy will bring "better harvests" for American agriculture.

Interestingly, when the Nixon administration is getting set to guarantee $250,000,000 in loans for the near-bankrupt Lockheed Aircraft Corporation, the Wall Street Journal sees nothing at all wrong with this trend. Our own view is that Lockheed, like American farmers, should be given a sample of the Nixon administration's policies of a "free market" and see how that corporation makes it with a "greater freedom of operation."

What's good enough for agriculture certainly ought to be good enough for Lockheed.

FASCELL COSPONSORS OPEN DATING LEGISLATION

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

Mr. FASCELL. Mr. Speaker, I am one of the cosponsors of the bill being introduced today to amend the Fair Packaging and Labeling Act to require all packaged perishable and semiperishable foods to be clearly labeled with a date indicating the last day on which the item can be sold.

The American consumer is entitled to know that the food items he buys from the grocery shelf are fresh, palatable, wholesome, and fit for human consumption.

This legislation, while not a final solution to the problem of food spoilage, will at least give the consumer a tool to use to reasonably insure that the products he buys are fresh.

It would require that all packaged perishable and semiperishable foods be prominently labeled to show the pull date for such food in clearly understandable terms, and to show the optimum temperature and humidity conditions for home storage of the food.

The coding of pull dates for perishable foods is not uncommon in our Nation's grocery stores, but until now codes have been designed for the use of wholesalers and store employees, and they have been incomprehensible to the consumer.

The legislation introduced today would prohibit retail distributors of such foods from selling an item unless it is labeled with a pull date, and it would provide strong penalties for violation of the law.

After a pull date has expired, retailers may sell such foods, but only if the food is legally fit for human consumption, physically segregated from like food whose pull date has not expired, and clearly identified as having passed the pull date.

Mr. Speaker, the merits of this legislation argue strongly for its early and favorable consideration in this Chamber. I urge our colleagues to join in its support.

NEWSWEEK COVERAGE OF CAPITAL DISRUPTIONS

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

Mr. DEVINE. Mr. Speaker, the coverage by Newsweek magazine of the recent unlawful disruptions in the Nation's Capital is among the most disgusting examples of yellow journalism that I have come across in some time. With its most recent effort, Newsweek has sealed its credentials with the underground press—distorting the truth beyond belief and fawning over those who would deny citizens and their Government their right to conduct business.

Newsweek would have us believe that Rennie Davis and his brownshirted friends were merely "kids" out to have a little revolutionary fun. In fact, said Newsweek:

Even their most insurrectionary tactics had a certain prankish air to them.

Prankish, indeed. Such pranks, mind you, included slashing tires, pulling distributor wires out of cars, throwing garbage into the streets, harassing Government workers and generally thinking up other harmless "pranks."

On other pages, Newsweek refers to the "festive" mood which abounded among the disrupters. How could the mood have been "festive" when Newsweek says in the next breath that these young pranksters had their civil liberties violated? In point of fact, the magazine would have us believe that keeping people from getting to work and forcing Government employees to go through harassing oceans of bodies to reach their offices is just a variation of spring fever. Newsweek calls it "peaceful assembly" when office doors are blocked and workers are intimidated. It is a wonder that the Government had the temerity to arrest any of the flower children.

Newsweek's greatest sin, however, is in its cavalier attitude toward the contravention of the law and toward the attempts of militant revolutionaries to halt all activity in the Capital of the free world. While giving short shrift to the dangerous antics of the so-called Mayday Tribe, Newsweek seeks, instead, to place blame on the police—which is akin to faulting the chicken, for being eaten by the fox.

Says Newsweek, the militants were arrested "under conditions that betrayed a sore lack of advance planning, a blatant disregard for the civil liberties of both protesters and bystanders, and nearly total abandonment of any hope of successfully prosecuting the offenders." Not once does Newsweek mention the irony of protesters storming into the city seeking to destroy the system and then turning around and demanding that they had their rights under the system.

I would suggest that on future occasions Newsweek ought to be consulted prior to police action against lawbreakers. Perhaps Newsweek has a better idea on how 20,000 bully-boys can be stopped from choking a city. But I doubt it. While great concern must always be shown for procedural fairness, it must be understood that no person and no group can get away with denying other citizens free and peaceable access to their place of destination.

When the Nation's Capital is threatened with a shutdown, what a travesty it is to say that the police efforts "warped the rule of law." What respect did the demonstrators show for the rule of law? When innocent persons had their cars thrown into the streets to block traffic, where was Newsweek's rule of law? Where was Newsweek's sense of fair play when individuals were frightened and threatened by the hectoring and harassment of roving bands of outlaws? I daresay that Newsweek was ensconced in its Manhattan suites predetermining its coverage of last week's events.

Not only did Newsweek point the finger of blame in the wrong direction, but it also painted the lawbreakers as beleaguered victims of brutality—a notion so far from the truth as to be ludicrous. Trying to raise spectres of concentration camps, Newsweek tells of "thousands of captives herded into an open-air, wire-fenced stockade." If Newsweek had a better suggestion for temporary detention facilities, it did not give the authorities the benefit of its great wisdom.

The magazine describes the temporary facilities as a "chilly, hungry, thirsty, smelly, smoky, unhealthy, and unhappy place." Now, if we can recall, these same people who were herded into the "repressive" compound spent at least a week camped out in West Potomac Park in Washington. Was the park not chilly at night? Were they any less hungry or thirsty in the park? Was it any less unhealthy in the park where these oppressed masses stoked their brains with drugs and urinated freely in their campgrounds?

And yet, in its same description of the

so-called concentration camp, Newsweek reported that—

> Frisbees sailed. One group played soccer with a plastic water bottle. Songs soared . . . celebrities wandered about—Doctor Spock, . . . and Abbie Hoffman.

It seems as though Newsweek's reporters could not decide whether they were reporting Woodstock or Dachau. Can we be so bold as to suggest that this supposedly reputable newsmagazine is guilty of inconsistency and contradiction?

Thus, this week's readers of Newsweek are treated to the prospect of giving the nihilists a propaganda victory which they could not win in the streets of Washington, D.C. Newsweek has this technique fine-tuned, for it has consistently given the enemy in Indochina reportorial victories which Hanoi has never been able to achieve in combat.

The truth lies somewhere other than on the pages of Newsweek. The truth is that the Washington police with military backup kept the city open, safe and operating, and their patience deserves high praise. If it bothers Newsweek that people who would strangle the Government of the United States are mildly mistreated, then I suggest that it consult with its bureau chiefs behind the iron curtain where police states are much more than "radical chic" in slick magazines. Nevertheless, there must have been some joy in Washington last week: The reporters from Tass were saved a lot of legwork—Newsweek did all their work for them.

PRESIDENT NIXON'S MESSAGE ON EDUCATION REVENUE SHARING

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

Mr. GROVER. Mr. Speaker, President Nixon's message on education revenue sharing calls for reform in the pattern of Federal assistance to elementary and secondary education which is long overdue. The existing patchwork quilt of Federal programs requires that State and local school officials devote a high percentage of their time to figuring out Federal guidelines and filling our Federal applications. Flexible responses to the individual needs of their students are stifled as they try to fit educational programs into federally constructed compartments.

One area of national concern—supporting materials and services—shows how ridiculous Federal categorical aid has become. Twelve existing Federal programs are proposed to be merged into a single area of assistance. Each of the 12 carries with it its own planning, reporting, and applications requirements. Each program distributes money among the States on the basis of some count of student population. Each provides that funds be distributed within the State by the State educational agency, according to relative needs of local educational agencies for the funds involved. Each requires separate planning and applications to separate Federal officials. In fact, two Federal departments—Agriculture and HEW—are involved.

How much more sense it makes to allow State officials to make a single plan for all these supporting services and materials. This way, under the President's proposal, funds could be allocated among the uses according to the State's unique needs. The program would be shaped by State needs rather than Federal dictates.

Freed from all the existing paperwork, Federal and State officials would be able to spend a far greater proportion of their time on technical assistance to local school districts which sought such help. There is a great deal of expertise, both in our State educational agencies and in the U.S. Office of Education. All too often, this expertise is wasted as paper processing becomes of primary importance in program administration. Elimination of the bulk of the paperwork would allow such expertise to be taken advantage of.

I applaud the President's bold step toward reform and reshaping of the Federal role in elementary and secondary education. It is long overdue—and it is badly needed. I urge my colleagues to support the Education Revenue Sharing Act.

CANNONERO II AND SENATOR MANSFIELD'S DRAFT AMENDMENT

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

Mr. MELCHER. Mr. Speaker, during the past few weeks there have been several opinions by Washington Post writers which I question. I want to discuss two of them right now that I believe illustrate the habit of the American people for making up their own mind. It is a good habit, too.

A prederby sports page article in the Washington Post described Cannonero II as a horse that had no business running in the Louisville 3-year-old classic. Cannonero II was shrugged off by the Post's sophisticated track expert before the Kentucky Derby because there was not enough information available on the colt that left Kentucky as a $1,200 yearling and was trained and raced principally in the buyer's country of Venezuela. Even after his come-from-behind victory the low regard of the Post's experts for Cannonero II continued right up to the Preakness. But the betting public, disregarding form sheets, experts, and prejudice against $1,200 Keeneland colts that sojourn for a time in Venezuela—that is the people—had made Cannonero II the favorite. He not only won but set a new Preakness record. The public was right. The people had more vision and judgment than the experts.

The faulty judgment on Cannonero II and his contemporary 3-year-old thoroughbreds by the Post's sports expert was recently matched by the emotional reaction of the Post's editorial writer to Senator MIKE MANSFIELD'S amendment to the draft.

Twenty-six years ago along with several million other GIs, I left the European theater for home.

Now, after more than a generation of aid from the United States, European recovery has progressed so far that the Deutsche Mark has been adjusted upward in comparison to the dollar and the European Common Market has built up a solid and protective economy for themselves to such a degree Britain is pleading to become a member.

Yet, we still have 300,000 men and 128 generals in Europe and we are stridently warned by the Post that reduction of troops and expenditures in Europe would be dangerous. It would be difficult for me to believe that in all of the NATO countries, none of which are engaged in the Vietnam war, that there are not enough men and generals to take over for part of our 300,000 troops and part of our 128 generals, which would still leave us with our share of the NATO alliance commitment.

Senator MANSFIELD has with patience and persistence waited for four different Presidents to undertake the obviously logical step of trimming our forces in Europe to meet the changes in defense needs, and the pressing needs of our own country.

We should continue the draft just to provide more than our share of troops for NATO? Just try to convince most Americans of that.

We should continue to lose ground on the soundness of the dollar because of a continuous negative balance of trade aggravated by the $14 billion spent annually to support our European troops? Just try to convince ordinary Americans of that one.

Rallying past Presidents, former Secretaries of State, and assorted former Cabinet officials, generals, and admirals to attempt to defeat the Mansfield amendment will not have any more impact on the American public than did the expert opinion which predicted Cannonero II would lose in the Preakness last Saturday. The ordinary people made him the favorite, and I believe the people of this country, who through the grace of God are often more blessed with more good judgment than our global planners, will agree with Senator MANSFIELD'S proposal.

When Humpty Dumpty fell off the wall not even all the king's men and all the king's horses could put him back together again.

This country has perched on a high wall in Europe for 26 years after peace was established and its effect on our country and its economy cannot be ignored any longer.

All of the living ex-Presidents and Secretaries of State and all the assorted generals, admirals, and officials that can be enlisted are not going to be able to issue enough statements to "put back together again" and remedy the damage which has already been done to our society and our economy by an overexpanded militarism, and almost exclusive reliance on soldiers and generals to enforce the peace, instead of using techniques of making peace.

There is no finer example of needless inflation of militarism and military expenditures than our maintenance of those 300,000 soldiers and 128 generals on European soil in an era of ICBM's and MIRV's.

We should have scaled down this force long ago; if a 50-percent cut this year appears drastic it is only because the much larger reductions which should have been accomplished long ago in consultation with our Allies have not been made.

ANNOUNCEMENT CONCERNING THE HONORABLE HAROLD RUNNELS

Mr. RONCALIO. Mr. Speaker, before beginning my special order for this afternoon I should like to take this opportunity to announce to our colleagues that I called the office of our colleague from New Mexico, the Honorable HAROLD RUNNELS, today, and I was delighted to learn that he is now out of the intensive care unit of the hospital at Bethesda and is improving and in excellent condition. He can now see visitors. I thought that might be of interest to our colleagues, to have this news of his recovery.

REASON AND COMPASSION MUST BE USED IN REORDERING OF NATIONAL PRIORITIES

The SPEAKER pro tempore (Mr. GONZALEZ). Under a previous order of the House, the gentleman from Wyoming (Mr. RONCALIO) is recognized for 60 minutes.

GENERAL LEAVE TO EXTEND

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject matter of my special order today.

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

There was no objection.

Mr. RONCALIO. Mr. Speaker, the 92d Congress has been assigned the most unenviable of responsibilities. It must preside over the cessation of a war in Vietnam which has claimed thousands of lives and deadened the spirit of so many Americans.

At the same time, it must seek to restore harmony here at home after an agonizing period of strife and self-doubt. Against this background of polarized emotions, it must proceed with reason and compassion in the reordering of national priorities to confirm the responsiveness of representative government.

In the clamor for action, it must sense the most urgent pleas; and in the competition for resources, it must respond to the areas of gravest need.

In one arena of domestic concern, there is the desperate appeal of the urban-industrial areas for assistance to meet the demands of an overconcentration of population. From rural America, there is an equally despairing report of communities wasting away, emptied by the attraction of the very cities already laboring under debilitating congestion.

The problem was succinctly stated by the President when he noted:

> Vast areas of rural America have been emptied of people and promise while our central cities have become the most conspicuous area of failure in American life.

In a confusing pattern of population movements, the central cities in the last decade have grown by only 1 percent, but their surrounding commmunities have increased by 28 percent, creating the monster known as suburban sprawl.

In the same period, rural America, which holds about a third of the population and about half its poor, suffered population losses. An estimated 500 counties in rural areas are experiencing a natural decrease in population. In the 1970 census, the States of North Dakota, South Dakota, and West Virginia lost population. Wyoming grew by only seven-tenths of 1 percent; and the States of Maine, Montana, Iowa, and Mississippi registered a growth of less than 5 percent.

The census confirms a trend which concentrates a majority of the population in 12 large metropolitan areas. With only 10 percent of the land, these dozen supercities will house over 70 percent of the people. Even more alarming is the fact that about half the population will live in one of three great metropolitan belts: Boston-Washington, Chicago, Pittsburgh, and San Francisco-San Diego.

Thus, from the core city to the smallest town, a sense of gloom prevails. The Advisory Commission on Intergovernmental Relations summarized the sentiment in its 1968 study, "Urban and Rural America: Policies for Future Growth":

> The nation's smaller communities outside of metropolitan areas will be increasingly bypassed by the economic mainstream and will also find it difficult to find enough jobs for all their residents and those in surrounding rural areas. Many rural areas will suffer from a further siphoning off of the young and able work force with a resultant greater concentration of older and unskilled among those remaining and a continuing decline in the capacity of rural communities to support basic public services.

The Commission was even more pessimistic in its appraisal of the cities:

> While the evidence is not conclusive, it may well be that increased size and congestion will also take a net social and psychological toll in urban living conditions. The advantages of suburban areas in attracting new industry will continue to widen the gap between the economies of central cities and their surrounding neighbors, deepening the problems of many central cities. Continued concentration of urban growth in suburban and outlying areas foreshadows a prolongation of development practices, creating "urban sprawl," the disorderly and wasteful use of land at the growing edge of urban areas.

Increasingly, the problem has come to be defined, in its simplest terms, as population maldistribution. As the 1970 Governors Conference concluded:

> There should be an adoption of a National Population Growth and Distribution Policy, developed in concert with state and local planning policies, to lessen the congestion and reduce pressure on the already overburdened resources of our cities, to offer opportunities for the free movement of all of our citizens, to realize their maximum potential, to match manpower and job training programs with the needs for community development and to lessen the problems of transportation, environmental decay and social service delivery that are not being adequately dealt with for today's population. Such a policy shall be consonant with a rural-urban balance of needs and regional potentials.

Acting in response to the same general problem, the National League of Cities in its 1969 Congress of Cities in San Diego called for "a specific policy for the settlement of people throughout the Nation to balance the concentration of population among and within metropolitan and nonmetropolitan areas while providing social and economic opportunities for all persons."

Against this impressive background of national problems, there is one urban area where the Congress has primary responsibility. In Washington, the Federal City, and its adjoining suburbs, the Congress has a special concern. In a capital which Pierre L'Enfant envisioned as an exemplary center of government and arts, some of the most glaring ailments of city life are evident.

As the consideration of District of Columbia funding bills made clear last week, the problems of the Greater Washington area defy exaggeration.

A once beautiful countryside has become a wilderness of shopping centers, office buildings, apartment complexes, and parking lots. Peaceful woodlands are gouged up for superhighways and green pastures surrendered for super airports.

With every new construction project, the beauty and charm of Washington diminishes. Old mansions are replaced by ugly office boxes and the sounds and fumes of traffic assault the senses. On many days, a smoke pall hangs over the city, aided with the noxious discharge of noisy jets.

In the past decade, the metropolitan area's population growth was 38 percent, a rate exceeded only by Greater Los Angeles. Today, the population is estimated at 2.9 million; and it is projected to double by 1980.

The area is expected to experience 29,000 housing starts this year, the highest number since the boom in the early 1960's. An estimated 14,000 apartment units will be started, an increase from the 9,200 begun in 1969 and the 11,000 in 1970.

Washington remains one of the great office-space markets of the Nation. In the last decade about 45 million square feet of office space was added in private and government buildings. During the coming decade, about 55 million square feet of office space will be added.

The Federal Government is the largest tenant, leasing about 10.5 million square feet. Having crowded the District, it has now come to favor Virginia locations.

This cramming of offices continues without any recognition of the danger signals of overcrowding. The congested traffic and strain on social services are warnings of even more serious problems. As Prof. Kenneth E. Watt, of the University of California at Davis, has pointed out, there are four general destructive processes in higher population density:

First, a growing competition for resources of all types;

Second, a number of medical and behavioral effects on individuals resulting from overcrowding;

Third, a breakdown of social processes in urban areas, defying the best efforts of harried public officials; and

Fourth, the inexorable process of environmental degradation.

The accusations about Federal building and leasing will be resented, of course, and seen as a threat to the economy of this area. I would submit, Mr. Speaker, that Washington's economy will be better off without any more strains from Federal office construction.

If the time has come to declare a moratorium on office building for Federal agencies in this area, and if some dispersal of existing offices were effected, where could they go?

Returning to the problem of population maldistribution, there are several alternatives. An ambitious program of new cities, beginning with Federal offices, could be attempted, but the costs would be great. An effort could be made to transform rural areas by encouraging the massive relocation of industry, but this avenue would be even more difficult to pursue. A third possibility, and one I favor, is to foster growth in moderate-sized communities in nonmetropolitan areas.

Without setting fixed limits, a community from 10,000 or 20,000 to a half million would be the logical place to absorb the influx of population from congested urban areas. These are the communities which would welcome growth and which could accommodate increases without impairing the physical or social environment.

In the 21st century, where would we like to see growth come? In any one of a number of areas where the economy is declining or barely holding on, in any one of a score of States where the revival of one or two communities could revive the economy of the entire surrounding area.

Are there any examples we can turn to in weighing the possibility of dispersal? I would note that during the Second World War, no less than 40 Government agencies with 42,000 employees were moved out of Washington to some 23 cities. Deputy Public Buildings Commissioner R. C. Jennings testified in 1946 that there was no resulting loss of efficiency. He said—and I use his phrase—that the move was "beneficial to the individual employee."

With the end of the war, the force of tradition and lack of imagination permitted the return of all the employees in time for the postwar boom in Government office building.

That dispersal was occasioned by the threat of war. Today, the threat of environmental destruction and social chaos is equally compelling, but nothing has been done.

There have been several heartening examples of locating Federal complexes outside the Washington area in a manner beneficial to the country and to the communities involved. Two of these examples occur in Colorado: the Air Force Academy at Colorado Springs and the National Center for Atmospheric Research at Boulder.

Let me digress for just a minute. The next time you are driving around, or should be in the congestion of the campus of George Washington University, a fine American institution located in the heart of the District of Columbia, look around and see what you see, and then liken it to a campus that is eight miles long in the foothills of the Rockies, the campus of the U.S. Air Force Academy, and then ask yourself which place is going to give our young Americans, your children and mine, the best environment for education, the best opportunity for leadership in a nation that so needs this leadership in our young.

Architect I. M. Pei, who designed the Research Center, wisely concluded he could not fight the Rockies, so he joined them and produced a complex which harmonizes in scale and color with the rugged Flatirons. The plateau affords ample room for parking facilities, recreation grounds and housing.

The impressiveness of the Center would be lost in Washington. Crowded among the gray beehives, it could offer no distant vistas, no grand landscape, except the bleak walls of another building and the metallic pools of parking lots.

An even more dramatic example is the Academy in Colorado Springs. Designed by Skidmore, Ownings & Merrill of Chicago, the buildings are of striking simplicity, with glassed-in exterior galleries affording a constant view of the westward mountains and eastward plains. Over it all lifts the mighty bulk of Pike's Peak. The open rangeland has room for whole future towns to house the training staff and personnel.

In this context of harmonious and beneficial placement, it is especially baffling to understand the justification for the location of the new Consolidated Federal Law Enforcement Training Center in Beltsville, Md.

Initially approved as a Secret Service training center in 1965, it was estimated then to cost $1,349,000.

When a revised, second prospectus was submitted and approved in 1969, the project was designated as a Federal law enforcement training center, and the price tag was now set at $18,073,000.

In the third prospectus, the project is termed a Consolidated Federal Law Enforcement Training Center, and the estimated cost has leaped to $52,664,000.

Aside from the consternation of skyrocketing cost estimates is the fundamental question of location. In the most recent report, on Project No. 19–0049, the planners indicate that during the second stage the question of regional offices came up. I would like to quote the prospectus on this point:

> Since trainees would be recruited from all over the United States, consideration was given to establishment of two or more regional centers. This was considered *impractical*, and a concept of a joint training center sharing an estimated cost of $18,073,000 was presented in the second prospectus.

An estimated $1,967,000 has already been obligated for the construction of outdoor firing ranges and a motorcade training area, as well as for master planning and design of parts of the Beltsville facility.

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

Mr. RONCALIO. I yield to my colleague, the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Speaker, I am delighted to support the suggestions of my distinguished friend from Wyoming that the Congress refuse to support any authorization or appropriation for construction of additional Government offices, public or private, in this immediate area.

Earlier this year, when my colleague protested proposed movement of the Army Materiel Command from Washington National Airport to Alexandria, I took the liberty of suggesting that the Army consider relocating this headquarters at the deactivated Glasgow Air Force Base near Glasgow, Mont., where the Government has a very large complex of buildings standing idle. The offer was declined by the Army despite the serious implications of increasing congestion and pollution that comes with it here. I should like to include in the RECORD at this point the editorial response of the Billings, Mont., Gazette in its March 3, 1971, issue, to that suggestion:

NEW HOPE FOR GLASGOW

Rep. John Melcher has the best idea yet for future use of the retired Glasgow Air Force Base.

He wants the Pentagon to put it back to use as part of the military.

Melcher's suggestion is that the U.S. Army transfer its Army Materiel Command to Glasgow AFB instead of erecting new buildings in the already congested Washington, D.C. area.

Glasgow AFB is no more remote on today's communications timetables than are Strategic Air Command headquarters in Nebraska or North American Air Defense headquarters in Colorado Springs.

No one is further away than a telephone these days. Jet travel, for which Glasgow AFB is admirably equipped, makes for eyeball-to-eyeball confrontation faster than a crosstown cab ride.

Although they probably won't take such a suggestion, the U.S. Army would find those lucky persons transferred to Glasgow away from the polluted, jammed capital would soon feel themselves to be the chosen people.

But no, it won't happen. Too sensible.

Mr. Speaker, it is entirely sensible that we consider moving agencies to our less populated areas. In Montana, we have blue sky that is not chopped off by a concrete skyline, some air that is so clean you cannot see it, imposing landscape, some arctic-cold rushing streams to dip into for a drink. We have solitude, too, something that is hard to find in this town. In Montana, a man can get off work and take a vacation before the sun sets. He can take a short drive, catch a few trout in a meandering stream and be home in time to watch the late broadcast of the same news that we hear in the Nation's Capital.

No area of the United States is remote in this modern day. Electronic devices keep us in instantaneous contact with offices thousands of miles away. Distance is not a handicap to dispersal.

The improved environment of which I have spoken is not a light or facetious argument. I am sure that students of human behavior and functioning will attest that an improved environment improves both the quantity and the quality of the work which everyone of us do.

The way to escape metro problems of transportation, the way to escape concentrated pollution of land, air, and water, the way to a better life for everyone involved is dispersal over the land.

And the way to start such a movement is for the Government which is so concerned about the problems of population concentration to start spreading itself to areas where the problems of overconcentration do not exist.

Mr. RONCALIO. I thank the gentleman from Montana very much for his valued remarks.

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

Mr. RONCALIO. I yield to the gentleman.

Mr. ABOUREZK. Mr. Speaker, the evolution of American government in the nearly 200 years since we declared our independence has had its ups and downs. All, I am sure, would agree that we have been one of the most admired and emulated countries in the history of mankind as we have set about the business of making the concept of democracy work. There is a trend, however, in our contemporary government that has been most disturbing to many. That trend is the increasing concentration of Government facilities and personnel in the Greater Washington area.

This trend is disturbing for several reasons. For one thing, as the population moves to the West, the concentrations of people become further removed from their center of government. Yet the concept of democracy is based on the premise that the people can govern themselves and keep track of what that Government is doing. This geographical isolation from their Government means that those people who do have business to conduct with the Government must endure that additional expense of travel to make their case before that Government. Further, there is the danger that that Government will more easily tend to act as a force unto its own interest rather than to the interest of the people it serves when those people are far removed from the Government.

In addition to these problems, there are the difficulties one encounters whenever a large number of people are congregated in one area. Washington is a beautiful city. But it is already facing the problems of all large metropolitan areas. It is struggling to provide services to more and more people. It is strangling on population. In these days of environmental concern, we are increasingly aware that the greatest problem is that of people. And the more people we bring together in one area, the larger the problems of pollution become.

The dispersal and redistribution of Government services, facilities, and personnel is sound both on grounds of commitment to our form of government and on grounds of preserving the Washington area from further environmental hazards. Placing Government facilities in smaller and middle-sized communities throughout the Nation would both stabilize the rural to urban population migration that we have been experiencing and bring back government closer to the people. The former would help solve problems of urbanization and the latter revitalize our democracy.

Thomas Jefferson once said something to the effect that no government unit should have to deal with an area larger than 6 square miles. I think we would recognize that in our day and age such a goal would not be feasible. But we must guard against moving to the opposite extreme. The danger of today is not a government that is too little, but one that is too big.

I would like to strongly commend my colleague from Wyoming, TENO RONCALIO, for organizing this special order today and compliment the large number of my colleagues for taking part. I know that this problem has been one of TENO's central concerns for some time. On February 12 of this year, the Rapid City Journal, the newspaper with the largest circulation in the district I am honored to represent, published an editorial entitled "Western States Would Be Glad To Take a Piece of Washington." This editorial discusses the efforts of TENO to encourage dispersal and relocation of Government facilities. I would like to add this editorial and an analysis of the problem to my comments at this point:

WESTERN STATES WOULD BE GLAD TO TAKE A PIECE OF WASHINGTON

U.S. Congressman Teno Roncalio of Wyoming may not get too far just now with a complaint about federal government being shut up in Washington, D.C. But if the nation's capital continues to become more congested and less tolerable, the time may come for Roncalio's idea that government should get some fresh air and arm room by moving out into the wide open spaces.

Roncalio suggested that government disperse and escape the clutter and claustrophobia that was evident to him after a four-year absence from Washington as a lawmaker. Previously it took him only 20 to 25 minutes to drive from his home in McLean, Va. to the Capitol. Now it takes him twice that long.

As evidence of the ability of government to function effectively outside Washington, Roncalio points to President Nixon. "Using jet planes, he can do his job any place . . . He can fly to Florida in less time than it took Teddy Roosevelt to drive his Franklin to work."

Taking up the idea, a Tennessee editor said it has merit. Many governmental agencies now stacked up in Washington could be moved to other parts of the country without any loss of communication with the total structure. Probably their departure wouldn't be noticed.

This would achieve two purposes: It would relieve some of the congestion in Washington and it would benefit the areas to which the agencies moved.

Wyoming has much unused space. So do the Dakotas, Montana, Idaho, Arizona, Utah and Nevada. For that matter, Tennessee probably could accommodate some of these agencies, too.

Congressmen from open-space states such as ours might find this idea a suitable substitute to President Nixon's revenue sharing plan. A small chunk of the federal government relocated here out of Washington, D.C., might easily be worth the $20 million or so that South Dakota would be entitled to under the revenue sharing scheme.

ANALYSIS

STATEMENT OF THE PROBLEM

Because of run-away centralization of Government facilities in the Greater Washington area, the physical and social environment of the National Capital is being destroyed, and with it, the capacity for good government.

LONG RANGE GOAL

Dispersal of physical plant and redistribution of government employees to safeguard the environment of Washington, make agencies more responsive to the people and contribute to the revitalization of small and middle-sized communities in areas which have suffered from out-migration.

EXAMPLES

The Wrong Approach—Locating the FBI building smack on Pennsylvania Avenue! The proposal to locate the Secret Service Academy in Beltsville, Maryland.

The Right Approach—The United States Air Force Academy located in Colorado Springs, Colorado.

HISTORY OF LEGISLATIVE EFFORT

Beginning in 1937, with the Browlow Commission's report, the Federal Government has been continually studying reorganization proposals. Despite this concern, no coherent policy on dispersal of Government facilities has ever been produced.

SPECIFIC PROPOSALS

1. Resolution expressing sentiment of Congress that any reorganization plan must include dispersal and decentralization.

2. Creation of a Special Joint Committee to formulate criteria to govern selection of sites for new installations.

3. A firm refusal to support any authorization or appropriation which carries with it the construction of additional government offices or private buildings to be leased to G.S.A. in the Greater Washington area.

4. Prepare for the onslaught of the Washington Post, the Evening Star, the Board of Trade, and local institutions who will wrongfully conclude that the plan will do them economic damage.

Mr. RONCALIO. I thank my colleague very much.

Mr. JONES of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman.

Mr. JONES of Tennessee. Mr. Speaker, I commend the gentleman from Wyoming (Mr. RONCALIO) for calling the attention of this body to the fact that this country still has countless thousands of square miles of wide-open spaces.

Many of us, it seems, tend to forget that America extends beyond the suburbs. For some unknown reason, we seem to think that government, businesses, and industry must crowd into the population centers. However, in this age of instant communications, the reasons which once dictated such a policy no longer exist.

One of Tennessee's fine newspapers, the Johnson City Press-Chronicle, recently took notice of these facts, and commended Mr. RONCALIO in an editorial for his interest in decentralizing our National Government. If I may, I would like to read that editorial at this time:

LET GOVERNMENT BREATHE

In these days of instantaneous communications, must the government keep itself shut up in Washington?

Why shouldn't it de-congest—disperse—escape the clutter and claustrophobia of the District of Columbia?

A Wyoming congressman, Teno Roncalio, returning to Washington after an absence of four years, is appalled at the increase in sprawl and "ugliness."

Aghast at the close-up construction and

crowding he sees all around, Roncalio expresses doubt government can function effectively in such an environment.

When he was last in Washington it took him only 20 to 25 minutes to drive from his home in McLean, Va., to the Capitol, he says. Now it takes him twice that long.

As evidence of the ability of government to function effectively outside Washington, Roncalio points to President Nixon. "Using jet planes, he can do his job any place . . . He can fly to Florida in less time than it took Teddy Roosevelt to drive his Franklin to work."

So why shouldn't government get some fresh air and arm room by moving out into the wide open sapces? he asks.

Granting that Roncalio is thinking of his home state, which has only three residents per square mile, his suggestion nevertheless has obvious merit. Many governmental agencies now stacked up in Washington could be moved to other parts of the country without any loss of communication with the total structure. Probably their departure wouldn't be noticed.

This would achieve two purposes: It would relieve some of the congestion in Washington and it would benefit the areas to which the agencies moved.

Wyoming has much unused space. So do Montana, Idaho, Arizona, Utah, Nevada and the Dakotas.

But a dispersal by government should not be directed toward these states alone. Tennessee and other Southern states ought to come in for consideration. Tennessee, in particular, has the advantage of not being as far removed from Washington as the Western states.

Mr. Speaker, I would like to express my agreement with the statement made in this editorial as well as with the comments concerning the gentleman from Wyoming, who was kind enough to yield this time for me.

Mr. RONCALIO. I thank the gentleman from Tennessee. I am grateful to him for his observations.

In support of what was stated by the gentleman from South Dakota earlier, I noticed in the May 15 issue of the Washington Star that—

The District Government has quietly begun issuing major building permits again after a 10-week freeze which cast uncertainty on the future of more than $100 million of construction currently under way in the city.

The reason the construction permits were canceled was the fact that the city sewers could no longer handle the additional load. The storm and sanitary sewers were already filled. But they are building the $100 million of new buildings anyway.

I was amused a moment ago by a remark of my esteemed friend and valued colleague, the gentleman from California, DON H. CLAUSEN. He said that the same subject was discussed in a speech that other Members, including himself, made some 6 or 7 years ago.

I would like to call attention to the fact that 10 years ago the Committee on Government Operations of the House, with the gentleman from California (Mr. HOLIFIELD) and those who served with him, particularly the gentleman from Wisconsin (Mr. REUSS), did excellent work in this same field. Maybe the time has now come. Maybe it is an idea whose time has arrived.

In view of the splendid success of the Air Force Academy location in Colorado Springs, how could the idea of a regional center be so summarily dismissed? Indeed, why was not a location somewhere in the West selected?

The consolidated center will serve personnel from the Departments of Justice, Treasury, Interior, Post Office, and State. While I admit that the training of the zoo police and Smithsonian guards is an area concern, why should this facility be crammed into an area already overflowing with the milk and honey of Federal construction?

I cannot imagine a worse possible site, unless that would be in downtown Washington. But, then, the Federal Bureau of Investigation is building on Pennsylvania Avenue.

The Consolidated Training Center could have been located in any one of 30 States which would gladly have made land available and could have shown a greater capacity for absorbing the personnel.

If we are serious about safeguarding the historic beauty of this area, and its capacity to house effective government, then we are going to have to vote against these kinds of proposals.

Congress will have to take the initiative. Deployment and dispersal have to be the new watchwords on the Potomac.

I recognize that this is trying to lock the barn door after the horse got away. What I am asking is that we begin taking more care in locking the door.

In appealing to my colleagues to level off Federal construction in this area, I am not espousing a lost cause. There have been a few encouraging signs. I was gratified to learn last week that the House Appropriations Subcommittee on Transportation decided not to reprogram funds for the tracked air cushion vehicle project from McLean to Dulles Airport.

On February 23, I noted in the CONGRESSIONAL RECORD the irony of two newspaper articles on this subject. One reported the possibility the Government would sell Dulles; the other noted the awarding of contracts for a tracked air cushion vehicle project to connect McLean and the airport.

At that time, I questioned the wisdom of the Government improving access to an airport it might sell in the near future and the wisdom of speeding transit along one of the few adequate highway connections in the area. In any event, the effort should have been directed to solving the transit problem between McLean and downtown Washington.

My objections were based on the environmental effects of yet another construction project in this area. Secretary of Transportation John Volpe informs me that several other Members had objections to this project. I do not know their reasons, though I suspect they were based more on the economics involved. I do think that in this case—and in others—good economics and good ecology go hand in hand in the fight against the Washington area building mania.

I would like to call attention to the fact that Secretary of the Interior R. C. B. Morton will spend from 4 to 6 weeks this coming summer at Denver. Secretary Morton said that it would put the Secretary closer to the Department of Interior's projects.

Two months ago at a White House briefing the President handed a congressional delegation a publication entitled "Highlights of Executive Reorganization. Reform for the 70's Renewal."

I submit that reform or renewal cannot be accomplished unless dispersal and deployment are added to the 1970's program, if America is to overcome this problem.

One thing is clear from these examples, and that is the necessity to organize the effort to establish a coherent, continuing policy to end the Government building boom here and to encourage the dispersal of agencies wherever practicable.

In the past 20 years, Presidential task forces have been studying the problem of governmental reorganization. President Truman began the effort. President Eisenhower appointed the Rockefeller Committee; President Kennedy, the Price Task Force; President Johnson, the Heinemann Task Force; and, most recently, President Nixon has drawn on the recommendations of the Ash Council.

And yet, in that same period the number of Cabinet departments has increased from nine to 12 and the major independent agenices from 27 to 41. The number of domestic programs has expanded tenfold to over 1,400. The major beneficiary—or should I say casualty—of this expanded Government has been the Greater Washington area.

I believe that Congress has to take steps to insure that governmental reorganization is linked to some program providing for dispersal of offices which can operate with equal or increased efficiency outside the Washington area.

Unless reorganization is linked with decentralization and dispersal, the net effect will be a shuffling of titles in the crowded mass of Washington offices.

A decade ago, this important link was established by the gentleman from Wisconsin (Mr. REUSS), who conducted an extraordinary study into the deterioration of the Capital and introduced H.R. 8284.

His bill would have amended the Federal Property and Administrative Services Act of 1949 to provide an orderly program of decentralization and relocation of facilities and personnel of executive agencies.

Although the House did not have an opportunity to vote on this bill, I think a reexamination of its language would be instructive.

As a prelude to the new article to the 1949 act, Mr. REUSS proposed a statement of purpose. I cannot improve on the clarity and urgency of his appeal. I would only remind you that these words were written in 1961. As you hear them, keep in mind the effect of 10 years of inaction on his appeal:

For the RECORD, here is the statement of purpose in its entirety:

The Congress hereby finds and declares that the unnecessary concentration of Federal facilities and personnel in the Washington metropolitan area impairs the efficiency of functions which must be carried on in the Capital; that the vast expansion of population in the Washington metropolitan area

now projected on the basis of a continuation of past policies will so overburden the remaining available capacity of the Potomac River for water supply and sewage disposal as to create severe economic dislocations and grave public health problems and will seriously impair or totally destroy the recreation and esthetic values of the river; that such concentration will create intolerable congestion of transportation facilities or, alternatively, will require such enormous expansion of such facilities as to render it impossible to enhance or even preserve historical and esthetic values in the national capital; and that a firm, Government-wide policy of relocation and decentralization is required in order to avoid further concentration and to remedy the ill effects of past failure to consider the interests of the country as a whole and the Government as a whole in the location of Federal facilities.

When that statement was drafted, the Washington area had a population of 2 million. There are another 900,000 people here today, and the resulting condition gives painful pertinence to the question Mr. REUSS asked 10 years ago:

What shall it profit Metropolitan Washington if it gains 5 million souls by the year 2000 and loses its own soul in the process?

The problem today forbids speaking of the gain of a million or 2 million residents as profitable, under any kind of standard. The cost of increased construction—in physical and human terms—is simply too high.

As Members of Congress, we have a special responsibility to this city and to the environment it provides for good government. In a small, but significant way, we can help Washington and the Nation by pointing the way to a more beneficial distribution of population.

We can do it today by focusing attention on the problem. We can do it by preventing the occurrence of another massive Federal training center in a Maryland suburb. We can support that goal by refusing to support any appropriation of authorization that carries with it funds for further Federal construction here.

I would hope that Congress will examine this problem and consider the possibility of establishing a select special joint committee to reopen the questions Mr. REUSS raised a decade ago. If this committee could conduct hearings on the problem and meet with the General Services Administration to consider new criteria in site selection, we could show progress and not mere promises.

I believe this issue has got to be aired. I am asking for the most direct approach and one uniquely suited to this Chamber—the tying of the purse strings on any more Federal buildings in this metropolitan area.

While this moratorium is in effect, we could develop more logical standards for location of installations, standards which will take all of the States into consideration and offer the best phase in a sane policy of population redistribution.

Mr. Speaker, I should like to thank the Members of the House who took part in this special order. I express the hope that each continue this effort, by voting against any appropriation carrying with it plans for funds or studies for the construction of Federal buildings in the District of Columbia or an area 50 miles around its boundaries.

Mr. BLATNIK. Mr. Speaker, the present urban crisis is probably the greatest peacetime crisis that our Nation has ever faced. Too many of our large cities were not designed to handle the amount of people they now contain. The human animal is probably the most adaptive of all earthly creatures and yet our big cities are experiencing the human problems of crime, alienation, indifference, and lack of jobs. The technical problems of increasing air and water contamination, overburdened and inadequate transportation systems, and lack of adequate housing also contribute to the human problems of big cities.

No one group of professional people can solve the problem. Too often in the past problems were looked at in segments rather than as a whole. The city is an expression of man writ large. If man is a creature who naturally desires health, then how can rats, filthy streets, and untreated sewage be justified? If man is a creature who likes beauty then how can the present haphazard design of cities be tolerated? If man is a creature who likes to participate in sports and other physical activities then how can you explain cementing up every bit of available space with a building? If man is by nature a social creature then how can a city which alienates him from his fellows be tolerated? If man is a creature who exchanges goods then how can a transportation system be tolerated that inhibits the movement of men and goods? If man is a creature of justice then how can a city be tolerated where crime is so widespread that it denies him his rights?

The present condition of many of our large cities clearly demonstrates, that whatever they were designed for, they were not designed for men. If the present situation is not attacked both in its symptoms and causes I believe that we will witness an ever-accelerating decline in American civilization. To attack symptoms would mean abating pollution from point sources, installing more conventional sewage control plants, and restricting private transportation in some way. But this would only go to the effects of the problem. A more long-range solution would involve recycling wastes.

There is another long-range solution that will minimize the impending social crisis which excessive overcrowding results in, and that is simply keeping people in the rural and semirural areas of the country. Life in most towns can be made much more attractive to people if goods and services are there to attract them. I first learned this when I was a teacher in the St. Louis County, Minn., rural school system. Over the years since I have been in Congress, I have worked hard to promote economic development in rural and semirural areas. I had the privilege of coauthoring the initial ARA bill with our former colleague Al Raines, of Alabama, and then-Senator Paul Douglas. In 1962, I authored and got enacted into law the first Accelerated Public Works Act which gave many local communities the opportunity to build the community facilities necessary to attract industry. In 1965, I authored legislation to combine the APW program with ARA, the Public Works and Economic Development Act of 1965 which created the Economic Development Agency and the various economic development commissions.

More recently, in the APW Act of 1971, which the House passed with overwhelming support less than a month ago, authorization was included for $2 billion in public works projects which, for the first time, will provide grants of up to 100 percent in certain hard hit areas. This will provide a tremendous incentive for economic development in rural America. The bill also provides for a 2-year extension of EDA and the Regional Commissions, and a 4-year extension of the highly successful Appalachian Regional Commission.

I intend to see that the Committee on Public Works makes a special effort to see what it can do to alleviate the problem of overcrowding in our cities. The 1970 Federal Highway Act provides for regional development center highways and I hope that this will be continued in future highway programs.

But much more needs to be done. Cities and especially the suburbs grew at phenomenal rates while many rural counties lost or are losing population. My own Eighth District in northeastern Minnesota went from 397,000 in 1960 to 390,000 in 1970. If present growth rates and patterns continue the year 2000 will find 85 percent of our people jammed together on about 15 percent of the land. Every problem that we now have will be magnified to a point beyond which we cannot imagine. It staggers the imagination to contemplate what life would be like if 85 percent of our population were faced with the problems of a New York City.

Ways must be found to decentralize our population and minimize the constant growth of our seaboard cities and other inland islands of population. Government itself should lead the way by decentralizing itself. This does not mean that governmental authority should be relinquished but rather that not every Federal Government endeavor need take place only with a legion of office workers located in the Washington, D.C., area. TVA is an excellent example of this. Out of 25,000 employees they have only four in Washington, D.C. With the availability of electronic communications equipment is there any reason why so much of the Federal Government is located in Washington? I think not. Following a study made under the Johnson administration, President Nixon divided the country into 10 administrative regions. But, unfortunately, his proposals for the restructuring of the Government do not involve any major proposals for decentralizing the location of the operations of Government.

The unfortunate thing will be that our descendants will have to pay for our inaction. I want to emphasize again, that unless we act soon, the growing urban sprawl may preclude successful future action. Small steps have been taken such as title IX of the 1970 Agriculture Act which requires that the Agriculture De-

partment send reports to inform Congress as to just what is being done to improve the quality of rural life by other agencies of the Government. House passage of H.R. 7, the rural telephone bank bill, was also a step in this direction. But we in Congress need to make these small steps giant ones toward achieving a true life of quality in America.

Mr. UDALL. Mr. Speaker, for several years it has been generally conceded that one of the major causes of the problems gripping American cities is congestion. We need look no further than the city of Washington and its surrounding metropolitan area for graphic evidence of how congestion threatens to strangle our great urban centers. Yet, despite this evidence, the Federal Government—the major employer in this area—continues to build more facilities in the Washington area, compounding the congestion and giving this once beautiful city more cars, more pollution, and more blight.

The time has come for the Congress and the executive branch to reverse this trend and begin to decentralize the facilities of the Federal Government. By embarking on such a program of decentralization, the Government would do much to improve both the physical and social environment of the National Capital. Modern communications and transportation methods make further centralization of physical facilities unnecessary for good management. Several farsighted leaders in private industry have already recognized this by moving their national headquarters from the congestion of New York and other cities to areas offering better working and living conditions for their employees.

Decentralization of Government facilities would have two other beneficial effects: It would bring the agencies of the Government closer to the people, and hopefully make them more responsive. Moreover, it would provide economic opportunity to many of our smaller communities, thereby reducing the migration of so many of our citizens to the cities. I am happy to lend my full support to the proposals for decentralization by the gentleman from Wyoming (Mr. RONCALIO).

Mr. McKAY. Mr. Speaker, I support the statements and position of my colleague from Wyoming. Last week, this body spent some time considering the transportation needs for our Capital City. The urgency of the deliberations and the concern generated are strong evidence of the problems which come with congestion in urban areas. None of us here needs to be reminded of the press of people filling the highways, polluting the air, using the land, and making demands on the facilities and resources of the Nation's Capital. We see these problems every day; and apart from its effects on the physical plants of our cities, overcrowding has serious emotional and psychological sequences for human beings.

The Congress is, also, regularly concerned with saving money. When one considers the costs of land and construction in the Washington area, it makes good sense in terms of economy in Government to seek ways to place facilities elsewhere. With modern communications like closed-circuit television and immediate transmission of data and documents, in addition to the traditional telephones and rapid mail service, the separation of any agency from the seat of government has few, if any disadvantages in terms of efficiency. Indeed, for many agencies there may be a distinct advantage in bringing them closer to the people they serve.

For those of us who live in the less populous States of the West, the proposal has special appeal. We are aware of vast amounts of land, much of it already federally owned, which would be available to house agencies. Additionally, we are convinced that employees would be happier in our areas. In Utah, for example, housing costs are less, leaving more individual income for other purposes. We have virtually every kind of outdoor recreation, within minutes of population centers. Utah contains a wide variety of scenic beauty, and in addition, our people have access to a wide range of cultural activities. Crime and pollution rates are lower, and educational opportunities for our people are high.

We are now asking more of governmental programs than that they accomplish the purpose for which they are intended. Among other things, we seek to insure that, in accomplishing their goals, they protect the environment. It seems to me that one of the environmental considerations which should receive serious attention when we consider placing an agency is the extent to which we increase congestion, not only in Washington, but in any area where a proposed Government facility is to be installed.

In addition to avoiding congestion and other adverse consequences of Government operations, we should also examine proposed placements of Government activities with a view to the benefits they might bring to an area in terms of overall development. Obviously an installation may be of more benefit to one area than to another. Proper placement of Government agencies might well reduce the demands upon other governmental programs.

Utah has many examples of efficient Government operations. Hill Air Force Base and Defense Depot, Ogden, are highly efficient installations located upon ample land area with adequate local housing available to employees of all income levels. The Western States Service Center for the IRS has meant a great deal to Ogden, Utah, an area facing serious employment problems, and the work handled at the Western States Center has proved highly satisfactory to IRS; it certainly made sense to locate that facility in Utah rather than in a populous city in California.

Relocation and decentralization is not new. It was necessary during World War II, and was accomplished, for the most part, without serious impairment of the governmental services involved. Now, the decentralization should be even more practical because of the increased speed and variety of transportation and communication.

Mr. Speaker, I believe that Representative RONCALIO has performed an important service in raising this issue before the House. I should like to include in my remarks, an editorial from the Ogden Standard Examiner of January 9, 1971, commending the Congressman for his efforts:

RONCALIO ASKS: MOVE AGENCIES WEST

Teno Roncalio, 54-year-old former newspaperman, is back in Washington, after an absence of four years, as Wyoming's lone member of the U.S. House of Representatives.

Rep. Roncalio, who left the House in 1966 to bid—unsuccessfully—for the Senate, was appalled by what has happened to the District of Columbia and vicinity during the four years he's been gone.

The congestion, he said, was causing utter chaos. And as more buildings are built, the crowding becomes worse.

"Something must be done about the hopelessness, apathy, ugliness, the monstrous disgrace," he declared.

His solution—one in which this newspaper heartily concurs:

"Many agencies and thousands and thousands of federal employes should be moved to the wide-open spaces of the West, where they could do their work as well—or even better—than in Washington."

He's so right!

In this modern day of communications, trading information electronically is far faster and usually easier than making exchanges in person. It can be done by voice, by teletypewriter, by computer, by closed circuit television or by the same facsimile printers that bring the Standard-Examiner its telephotos.

Rep. Roncalio pointed out that President Nixon and his staff function just as well at the Florida and California White Houses as they do in Washington.

He jokingly noted that Mr. Nixon "can fly to Florida in less time than it took Teddy Roosevelt to drive his Franklin to work."

Naturally, the Wyoming Democrat feels that Wyoming—with a population of only three residents per square mile—would make an ideal western site for headquarters of the agencies that he wants moved out of overcongested Washington.

Wyoming would. It's a great state.

We're delighted that the congressman from our neighboring state also recommended that "likely locations" could be found in Utah, as well as Montana, Idaho, Arizona, Nevada, Colorado and the Dakotas.

May we point with pride to the many federal agencies that already call Ogden "home." It's a long and imposing list—headed by Hill Air Force Base as headquarters of the Ogden Air Materiel Command. We also have Defense Depot Ogden, the Western Service Center of the Internal Revenue Service, the regional office of the Forest Service, the Navy's Oceanographic Distribution Center and the Federal Supply Depot at Clearfield's Freeport Center.

Our approximately 30,000 federal employes are proof that Uncle Sam's forces like it in the West. Few want to go to Washington. And many Washingtonians want to come West.

H.R. 3679: A BILL TO ASSIST IN THE EFFICIENT PRODUCTION OF THE NEEDED VOLUME OF GOOD HOUSING AT LOWER COST THROUGH THE ELIMINATION OF RESTRICTIONS ON THE USE OF ADVANCED TECHNOLOGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 20 minutes.

Mr. HOGAN. Mr. Speaker, the United

States is in the midst of a housing crisis of massive proportions. A large number of potential home buyers are priced out of the market for adequate shelter. The needed volume of new construction is inadequate to meet prevailing and future needs. These facts are well documented and require little elaboration.

Consider this:

Although the U.S. Department of Commerce reports impressive numbers of housing starts for the first months of 1971, annual rates of production are still well below what is needed to meet the goal of 26 million new and rehabilitated housing units by 1978, as set out by the 1968 Housing Act.

The New York Times reported on February 21 of this year that—

> In 1970 construction prices rose by 9 percent compared to a 5.5 percent increase in all prices. The year before construction prices rose by about 7 percent.

Over the last generation, between 1949 and 1969, the National Association of Home Builders has found that the average sales price of a new home has almost doubled from around $13,500 to $26,000.

Despite our best efforts, housing problems recognized years ago persist and, in fact, seemingly worsen from year to year.

H.R. 3679, the Housing Rights Act of 1971, of which I am cosponsor, attempts to alleviate some of the worst housing problems confronting the Nation by helping to eliminate restrictions on the use of advanced technology in federally assisted housing. This will encourage construction of housing and help bring costs down so that more people will be able to afford adequate shelter.

Mounting evidence strongly suggests that by slowing production and adding to costs, antiquated and restrictive building, mechanical and other codes stand in the way of achieving our national goals. The National Commission on Urban Problems, in its reports to the Congress and to the President, has explored the problem of local codes and has found widespread restrictions on the type of new products and practices this bill attempts to make more easily and more widely adopted.

For example, the Commission found that local codes are making house construction less efficient, slower, and more costly. Overly demanding reenforcement requirements in non-load-bearing partitions, instead of more performance-oriented standards, make construction overly costly. Local requirements—in excess even of model code requirements—in the mechanical-electrical area alone, the Commission found, in some cases have added nearly $1,000 to the cost of a dwelling.

In this bill, the Department of Housing and Urban Development, which administers Operation Breakthrough, as well as several programs requiring that State or local codes contain up-to-date standards, has the responsibility of testing, or having tested, and certifying the comparability of new residential building techniques, methods, materials, and products with conventional ones. This certification will serve as presumptive proof of the comparability of new techniques and practices, rebuttable only by clear and convincing evidence to the contrary. In this way, the bill will make certain that codes used in federally assisted housing will not contain unnecessary, time-consuming, and costly restrictions, on the one hand, but will foster practices and products meeting minimal standards for safety and quality on the other.

In the last several years, great advances have taken place in the housing industry. In response to technological changes neither the construction industry nor State and local governments has stood still. Construction techniques and materials once considered radical or too innovative have increasingly been developed by the industry. The very definition of what constitutes conventional construction has been revolutionized as newer, better, more efficient and less costly practices and products have been introduced and adopted. Also, in the last 2 years—since the establishment of Operation Breakthrough—the Department of Housing and Urban Development reports that nine States have adopted legislation which establishes State review and certification of industralized housing systems, adopts Federal industralized housing standards or authorizes mandatory State building codes. These developments, it seems to me, indicate the growing realization on the part of the construction industry and legislators everywhere of the gravity of the problem posed by restrictive and antiquated codes and a resolve somehow to overcome these restrictions. The fact that codes—including model codes—have proliferated in recent years testifies to the need for the authority granted in H.R. 3679. Rather than requiring a national code, inflexibly applicable to all areas and regions, however, this bill allows for the diversity and experimentation that has traditionally characterized our far-flung Nation while making provision for better, more efficient and technologically innovative ways of doing things.

Finally, this bill would go a long way toward making possible the Department of Housing and Urban Development's implementation of the technology mandate contained in the 1969 Housing Act. Section 417 of the act directed the Secretary of Housing and Urban Development to "assure, to the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under this section, that there is no restraint by contract, building code, zoning ordinance, or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction—and therefore stimulate expanded production of housing—H.R. 3679 will help make it possible to realize this congressional mandate.

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. A recent editorial, entitled "The Equal of None," aired over WKRC radio, Cincinnati, Ohio, underscores America's achievements. WKRC noted:

> Suppose you woke up one morning and, overnight, the following things had happened in the United States:
>
> All paychecks slashed 75 per cent,
>
> 40 million TV sets destroyed,
>
> 14 out of every 15 miles of paved roads torn up,
>
> 60 per cent of our steel-making capacity abandoned; along with two-thirds of our petroleum industry,
>
> 19 of every 20 cars or trucks junked,
>
> 2 out of every 3 miles of railroad track torn up,
>
> 9 out of every 10 telephones ripped out, and
>
> 7 out of every 10 houses torn down.
>
> By doing all this, the United States could become the equal of Soviet Russia. We think it shows that we must be doing something right in America.

KENYA RECEIVES INITIAL COFFEE DIVERSIFICATION FUND GRANT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts (Mr. MORSE) is recognized for 5 minutes.

Mr. MORSE. Mr. Speaker, the International Coffee Agreement, initiated in 1962 under United Nations auspices, has recently achieved a long-range milestone in its development.

Although up to the present, and probably for some time yet in the future, the key to world coffee market stability has been balancing exports with demand, the most basic and long-run problem essentially is finding means of balancing production with demand.

Therefore, I think it is of considerable significance to note that on Friday, April 23, the Coffee Diversification Fund, which was created and is funded entirely by the producing countries under the International Coffee Agreement, made its initial grant to Kenya to permit a switch from coffee to cattle raising.

Although this action was little heralded, it is of particular importance especially now, when the United States and the industrialized nations of the world are seeking new ways to deal with aid to underdeveloped countries. It is the beginning of a long-range program, paid for by the developing countries themselves with part of their earnings attained under the coffee pact, which is essential to achieving a reasonable balance between world coffee production and world coffee demand.

I am heartened by this move, and look forward to continued progress in this direction. I think it noteworthy at this point to share with my colleagues the following official statement, issued in London, on the signing of this first contract under the Diversification Fund:

WASHINGTON, D.C.,
April 23, 1971.

A loan contract for a livestock development project was signed today in London at the headquarters of the International Coffee Organization between the Republic of Kenya

and the Coffee Diversification Fund of the organization. The High Commissioner for Kenya, His Excellency Mr. Ng'ethe Njoroge, signed the loan contract for Kenya, and the organization Executive Director, Mr. Alexandre Fontana Beltrao, for the Fund.

This is the first contract entered into by the Fund created by virtue of Article 54 of the International Coffee Agreement—1968 to help to bring the supply of coffee into reasonable balance with world demand and thereby to further the economic development of producing countries.

The Fund is financed by contributions from the producing countries themselves.

The resources of the Fund from contributions from producing countries now total the equivalent of US$68 million and it is anticipated that this sum will increase to US $134 million by the end of the present five-year agreement in September 1973. Additional sums have been offered in the form of loans or grants by importing members of the Agreement.

The signing took place in the presence of Delegates to the Board and Assembly of the Fund. The Chairman of the Assembly is Mr. Bruce R. McKenzie of Kenya and the chairman of the Board is Mr. Jorge Canavati of Mexico.

The following are the salient features of the loan contract: amount and currency: up to the equivalent of US$460,000 in Kenya shillings to encourage intensive animal production in coffee growing areas by means of demonstration, training aids and the provision of credit facilities. Repayment terms: 20 years, including a five-year grace period. Interest: the loan is free of interest. Disbursement period: three years ending 30 June 1974.

INTERCAFE.

NOTICE OF IMMIGRATION AND NATIONALITY ACT HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, I wish to advise the House that on Thursday, May 27, 1971, Subcommittee No. 1 on Immigration and Nationality, Committee on the Judiciary, will continue hearings on revision of the Immigration and Nationality Act.

Testimony will be received from the Honorable Raymond F. Farrell, Commissioner of the Immigration and Naturalization Service of the Department of Justice who also appeared as a witness before the committee on May 5, 1971. The hearings will begin at 10 a.m. in room 2237, Rayburn House Office Building.

The purpose of the hearing is to review general enforcement of the immigration laws and to analyze the problems that have developed in the administration of the law. Further hearings will be announced at a future date.

SEAN LEMASS, PRIME MINISTER OF IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, last week the world lost one of its great men. As it was, Sean Lemass had been Prime Minister of Ireland for 7 long and crucial years, but in view of the qualities of leadership and his record of accomplishment for the Irish people, he made a contribution to the whole world. In other words, in doing well what he was elected to do for his country, the gratitude he has today goes far beyond the Irish countryside, the Irish population, the Irish cities and towns he loved so well. He earned the undying gratitude of men the world over. Not just Americans, who have always watched events in Ireland closely with a friendliness and sense of involvement based on the deepest ties of all—common blood and common history—but indeed of nations the world over, especially those that are most often referred to as developing.

They say that history takes time to write and that one must not rush to judgment, in the interests of historical accuracy. But the thing that struck me was a common thread running through all the tributes and obituaries in the world press last week. All of them were of the unanimous opinion that Lemass had been the one who finally led Ireland into the family of nations on an equal footing with all others. The economic policies which he had labored so diligently to put into practice before ever becoming Prime Minister finally came to fruition and gave Ireland and Lemann its Prime Minister, the firm foundation to pursue an independent course as need be and strike out in new directions on the important international issues of the day, particularly in the United Nations. With an economy behind him that was providing more jobs for his people and lessening their dependence on foreign products, the Prime Minister of Ireland was able to sit down with the government to the north and his British counterparts and deal as an equal on matters of mutual concern. In short, the Prime Minister has been universally credited with being the leading pragmatist in Irish history, offering more to the people than oratory, past prejudicies, and present inhibitions.

He chose to deal in present realities and future hopes and in doing so became a mover and a doer—a man of action, in the best sense. When ill health finally forced him to step down, he left to his successor, the present Prime Minister, John Lynch, a man from the same mold in many respects, an Ireland that had been transformed economically and spiritually. He turned over a country which, after centuries of suffering under foreign domination and decades of agonizing soul searching on its own, had begun to prosper at home and give the lead to others overseas. In trying to bury past quarrels which had consumed so much energy, talent, and time for years on the Irish scene, he turned the ingenuity of the Irish people to achieving the things that really matter in the end in the world today, greater economic self-reliance, participation in the family of nations and helping others trying to overcome the deprivation of a colonial heritage.

And time has proved him right. The years of his retirement show that what he had accomplished was no mere transitory thing, no flash in the pan, no quirk or momentary exception, no false hope, nor a thing of fleeting glory. His handiwork has endured, thrived, and developed in the ensuing years to the point where historians at his passing were unanimous in their conclusions of his successes. He built a firm foundation and that was what was needed and, as in the case of the great architect Christopher Wren, if anyone requires a monument to this great architect, albeit a political architect, look around you. The successes that is modern Ireland is there for all to see.

DEATH PENALTY SUSPENSION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CELLER) is recognized for 15 minutes.

Mr. CELLER. Mr. Speaker, I place in the RECORD an excellent summary and review prepared by the American Law Division, Library of Congress, of the McGautha against California decision rendered by the Supreme Court on May 3, 1971, rejecting certain constitutional challenges to the procedures whereby the death penalty has been imposed.

The concluding sentence of this article deserves the special attention of every citizen. It reads:

Whatever may be the long-term trends, the short-range prospect is the possibility that the absence of executions since mid-1967 is about to end.

The material follows:

[The Supreme Court 1970–71 term, a brief summary and review of decided cases]

CAPITAL PUNISHMENT—DUE PROCESS AND THE IMPOSITION OF THE DEATH PENALTY

I

In a six-to-three decision the Supreme Court has held that the imposition of capital punishment by the same jury which has decided the issue of guilt without a separate hearing on the issue of punishment and in the absence of standards designed to limit the jury's absolute discretion does not offend federal constitutional provisions. Unless the Court shortly agrees to hear other cases raising other issues about the death penalty, the States are now free to carry out sentences of execution imposed on over 600 persons over the last several years. Neither of these cases concerned the constitutionality of the death penalty *per se*. *McGautha* v. *California*, No. 203; *Crampton* v. *Ohio*, No. 204, May 3, 1971.

II

McGautha was convicted of first-degree murder, committed in the course of an armed robbery. Under California procedure, following the trial on the issue of guilt there is a second trial on the issue of the penalty before the same jury. McGautha's contention was that the State had established no standards which governed the deliberations of the jury on the penalty issue and that the unreviewable discretion vested in the jury to vote life or death on any basis the members wished denied him due process of law. The contention was rejected below. 70 Cal. 2d 770, 452 P. 2d 650 (1969).

Crampton was also convicted of first-degree murder of his wife. Under state procedure, the same jury sitting at the same time on both issues decided both the issues of guilt and the issue of punishment. He argued that due process and other federal constitutional guarantees required that the trial of the guilt issue and the trial of the penalty issue be separated, so that if he were convicted he could offer evidence to mitigate the penalty decision where as on the issue of guilt he would not offer mitigating evidence without making incriminating admissions to the jury. Crampton also raised the issue of standards. The lower courts held against him

on both contentions. 18 Ohio St. 2d 182, 248 N. E. 2d 614 (1969).

III

The history of English and early United States law and practice was regard to the punishment of serious, and some not so serious, crime has been one in which a large number of crimes were capital, but procedural and other barriers were placed in the way of imposition of death in large number of cases.[1] For the United States in the last Century and this one the law has seen a consistent narrowing of the number of crimes which are capital and the last decade has witnessed a dramatic falling off in the number of sentences of executions carried out.[2]

Diminution of the numbers executed in this country has been primarily a result of legislative action and the exercise of executive clemency, but taken in response to what has been perceived as a gradual development of public opinion against capital punishment. The courts have not generally played any substantive role, although one should not fail to notice the commonly understood practice of courts to require less of a showing of error to reverse convictions in which the death sentence has been imposed.[3]

In the last twenty years, however, many organized groups have turned to the courts, on this issue as on many others, as a source of and contributors to change in the death penalty controversy. Many traditional civil rights oragnizations have been drawn into the matter by the statistical showings that sentences of death are significantly more often imposed on minority group persons;[4] traditional civil liberties groups have moved into the struggle for a number of observable reasons: the imposition and carrying out of death sentences being generally perceived as occurring more often when the defendant is poor and the member of a racial or ethnic minority group than if he is "unpoor" and white; a tendency to reform of criminal laws, substance and procedure, generally, with a perception that the presence of capital issues frequently skews the developing legal processes; concern with the essential informality of the sentencing stage of the trial process as opposed to the increasing procedural intricacy of the trial of the issue of guilt.[5]

The substantive attack on the death penalty has been primarily one based on the "cruel and unusual punishment" clause of the Eighth Amendment.[6] It has been vigorously argued that capital punishment is void under the Eighth Amendment, either because death is now, at this period in time, a punishment which the prevailing moral sentiment of the community rejects or because its imposition and execution is so erratic, irrational, and capricious with regard to the persons actually put to death as against the far larger numbers who legally were liable for the punishment that as to any particular defendant its imposition would be "cruel and unusual."[7] An offshoot of the latter type of argument has been a limited attempt on the part of some to tighten the number of criminal acts for which death would not be a "cruel and unusual" punishment.[8]

To date, the Supreme Court has accepted only one case for review as to which it considered the "cruel and unusual" punishment argument and that was a case in which this last specialized argument was ideally suited.[9] But that case was decided on a procedural issue and other cases accepted have been taken with Eighth Amendment issue excluded from consideration.[10]

IV

Greater success for a period was achieved by those litigants who came to the Court arguing a variety of essentially procedural considerations. Most significant of these cases was *Witherspoon* v. *Illinois*, 391 U.S. 510 (1968), 1967–68 *Report*, pp. 246–56, in which the Court held that the exclusion of jurors from a panel which is asked to impose, among other possible penalties, the death sentence solely because these jurors may have scruples or objections about capital punishment is invalid so long as the jurors do not admit that their scruples are so severe that they could never consider death as a possible verdict.[11] The Court also struck down certain federal statutes establishing a penalty structure in such a way that a defendant choosing a jury trial faced the possibility of a death sentence whereas a defendant who elected to plead guilty or to stand trial before a judge without a jury was assured that the maximum penalty he could receive was life.[12]

The Court twice heard argument in a case in which the issues of standards and the dual-versus single-jury were raised, but it was finally remanded for consideration of the *Witherspoon* holding. *Maxwell* v. *Bishop*, 398 U.S. 262 (1970). Review was then granted in these two cases with the issues limited to these two.

The standards issue is essentially a due process argument.[13] It proceeds on the line that the legislature's failure to articulate any standards for the guidance of juries in capital cases sets the imposition of a death sentence free from any rational ground for decision and provides no basis upon which it may be reviewed by an appellate court. The jury may thus act arbitrarily in reaching its choice, doing so possibly by whim or caprice. The leading decision upon which the defendants relied is *Giaccio* v. *Pennsylvania*, 382 U.S. 399 (1966), in which the Court struck down for vagueness and for lack of standards a statute permitting juries unlimited discretion to assess defendants, whom they have acquitted, the costs of the trial. On the standards issue, the Court, in an opinion by Justice Black, held that a law fails to meet the requirements of due process "if it is so vague and standardless that it leaves the public uncertain as to the conduct it prohibits or leaves judges and jurors free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case . . . This 1860 Pennsylvania Act contains no standards at all, nor does it place any conditions of any kind upon the jury's power to impose costs upon a defendant who has been found by the jury to be not guilty of a crime charged against him." *Id.*, 402–03. But the Justice also cautioned that "we intend to cast no doubt whatever on the constitutionality of the settled practice of many States to leave to juries finding defendants guilty of a crime the power to fix punishment within legally prescribed limits." *Id.*, 405 n. 8.

The sentencing stage of a criminal trial has long been one governed by the most informal of standards. It remains so today although the Court has imposed some substantive and some procedural limitations on the sentencing power of judges. Whether these limitations apply, or can in fact be made to apply, to jury sentencing is an undecided issue.[14]

The single—versus dual—jury determination issue arises out of the argument that the single-verdict procedure is one that requires an accused to give up one right in order to exercise another right. The Fifth Amendment, for example, protects one against being compelled to incriminate himself. But on a trial in which the issue of guilt and the issue of penalty are to be determined at the same time a defendant wishing to place before a jury facts which he may feel will suggest extenuating circumstances and lead to a lesser degree of punishment must in effect give up his privilege against self-incrimination and place before the jury facts which inevitably will contribute to the jury's decision to convict. A defendant not willing to forego the privilege must give up any opportunity to address the jury on the question of punishment.

Several cases from recent years are relied on here. In *Simmons* v. *United States*, 390 U. S. 377 (1968), 1967–68 *Report*, pp. 338–40, 342—45, the Court, in an opinion by Justice Harlan, refused to allow the admission at trial of the defendant's testimony given at a pretrial hearing on a motion to suppress certain evidence. In order to have standing to move to suppress, the defendant at the hearing had to admit ownership of the incriminating evidence; admission of the testimony at trial after the suppression motion had failed would have formed a strong link to the commission of the trial. Justice Harlan wrote, however, that the Government could not put defendant to a choice between constitutional rights: the right to protest an alleged unlawful search and seizure or the right not to incriminate himself.

Other cases relied on were *United States* v. *Jackson*, *supra*, n. 12, and *Jackson* v. *Denno*, 378 U.S. 368 (1964), in which the Court held that the trial judge must hold a hearing away from the jury and himself determine the voluntariness of a confession before it could be admitted, as against the New York procedure permitting its admission so that the jury could determine voluntariness with instructions not to consider the confession if the jurors found it not to have been voluntary. But several decisions last Term substantially undermined the rationale of these cases[15] and the defendants had to overcome as well the decision in *Spencer* v. *Texas*, 385 U.S. 554 (1967), in which a closely divided Court held that a dual trial was not required in a situation in which a jury was asked to determine both the issue of guilt and the issue of recidivism. That is, at the trial on the issue of guilt the prosecution could introduce as well the record of defendant's past convictions so that if the jury found defendant guilty the jury could sentence him as a repeating offender as well. The majority rejected the argument that introduction of and past record could prejudice the defendant before the jury on the issue of guilt.

V

Justice Harlan delivered the opinion of the Court in a single opinion dealing with both *McGautha* and *Crampton*. The Chief Justice and Justices Black, Stewart, White, and Blackmun joined the opinion and Justice Black also filed a brief concurrence. There were two dissents: Justice Brennan wrote an opinion on the standards issue and Justice Douglas wrote a dissent on the single—versus dual—jury issue. Each joined the other's opinion and Justice Marshall joined both.

(A) Justice Harlan's treatment of the standards issue consisted of an historical survey of the progressive limitation of the crimes and types of crimes for which death was the penalty, achieved first by efforts to assess legislative degrees of crimes and then by vesting discretion in juries to impose death or recommend mercy, and of a survey of efforts here and in Great Britain to formulate standards, all of which had resulted in little or no real limitation on the jury's discretion. Thus, in his view, it was seen that the standardless authority of the jury represented a steady progression from a period in which many crimes were inflexibly capital to a time when the jury representing the mores of the community imposed fewer and fewer death sentences. Such a history of settled practice, the lodging of total discretion in the jury going back well into the last Century, required a strong showing of constitutional necessity in order to be upset.

But the record of attempts to formulate standards, Justice Harlan thought, showed that the best which had been achieved was simply a listing of some of the factors which a jury should take into account and which

Footnotes at end of article.

afforded only a minimal limitation on the discretion the jury exercised.

"In light of history, experience, and the present limitations of human knowledge, we find it quite impossible to say that committing to the untramelled discretion of the jury the power to pronounce life or death in capital cases is offensive to anything in the Constitution. The States are entitled to assume that jurors confronted with the truly awesome responsibility of decreeing death for a fellow human will act with due regard for the consequences of their decision and will consider a variety of factors, many of which will have been suggested by the evidence or by the arguments of defense counsel. For a court to attempt to catalog the appropriate factors in this elusive area could inhibit rather than expand the scope of consideration, for no list of circumstances would ever be really complete."

Justice Brennan's 64-page dissent argued that due process did indeed require the formulation of standards to restrict the discretion of juries and to make their decisions reviewable. Substantially compressed, the argument runs thus: One element of due process is that policy choices are made and articulated by responsible organs of government; normally, this will be the legislative branch but in complicated areas the legislature may delegate responsibility provided it does so in ways which make the ultimate decision both responsible and reviewable. Another element of due process is that when federal rights are involved the States may not so restrict reviewability of the exercise of power that federal review would be ineffectual in protecting federal rights.

As applied, the Justice's due process argument would mean that a State which has decided that some criminals will be executed but that others will not must establish standards by which it can be determined that a convicted criminal belongs in one class or another. This action will involve making express judgments about the penal ends which the State wishes to serve—rehabilitation, retribution, deterrence, prevention—and about the application of these ends to particular crimes which it has made punishable. If it vests sentencing discretion in juries it must articulate the standards by which the jury is to decide and require the jury to articulate its reasons for the application of a sentence in the particular case. In this way, the process of common law development of standards can be followed and reviewability of the jury's decision is made possible.

(B) The issue of the single trial on the issues of guilt and punishment was similarly dealt with fairly briefly by Justice Harlan. The *Simmons* case with its emphasis on the tension between constitutional rights was not disapproved but its force was considerably lessened. Instead, the Justice pointed to the guilty plea cases from last Term, *supra*, n. 15, as showing that the criminal justice system was replete with situations requiring the making of difficult choices and the fact that a defendant might be required to make a choice between rights does not necessarily mean that any constitutional issue has been joined.

To the argument that in order to put before the jury mitigating matters on the question of punishment the defendant had to give up his privilege against self-incrimination. Justice Harlan agreed that the effect of making that choice might well have that result. But in this sense, the choice was no different than deciding to take the stand to testify in one's behalf knowing that to do so meant giving up the privilege to remain silent on cross-examination about matters reasonably related to the subject matter of his direct testimony or that taking the stand would permit one to be cross examined about any prior criminal record. Thus, neither the express language of the Fifth Amendment privilege nor the policies underlying it were implicated by the fact that trial structure may create pressure upon a defendant to testify when he has a right to remain silent. Neither, continued the Justice, did the converse of the argument require a different result. Assuming without deciding that a defendant might have some federal constitutional right to present evidence or testimony bearing on the issue of punishment, the Court could see no federal constitutional violation arising from the fact that the single-trial structure might lead some defendants to forgo this right. Again, it was merely an example of a defendant faced with a difficult decision.

Justice Douglas' dissent argued that the burdening of the privilege against self-incrimination was impermissible. The single-trial procedure was not simply an example of a system which incidentally put a defendant to a hard choice; it was instead a procedure which could operate no other way. Additionally, the Justice thought due process required that a defendant be afforded a meaningful opportunity to address his sentencers on the issue of the sentence, a right which the single-trial procedure plainly denied.

(C) Concluding, Justice Harlan emphasized that dual trials and promulgation of standards might well be the best procedures in terms of policy and might accord with the enlightened ideas of students of criminology. But the Court was reviewing the procedures according to constitutional standards. "The Constitution requires no more than that trials be fairly conducted and that guaranteed rights of defendants be scrupulously respected. . . . The procedures which petitioners challenge are those by which most capital trials in this country are conducted, and by which all were conducted until a few years ago. We have determined that these procedures are consistent with the rights to which petitioners were constitutionally entitled, and that their trials were entirely fair."

Justice Black noted that he agreed generally with Justice Harlan's views but he objected to any assertion by the Court of power to judge whether criminal trials were "unfair" or "unreasonable" or some other such standard. The Court could only decide whether any express or implied federal constitutional right had been violated. The Justice also rejected the "cruel and unusual punishment" contention raised by some *amici* briefs.

VI

As we have noted the issues in these two cases did not go to the constitutionality *per se* of capital punishment and do not shed any clear light on the prospect for success or failure of the "cruel and unusual punishment" argument should the Court review it, although it must be thought unlikely that such an argument would stand a substantial possibility of being sustained. But there are about 120 cases on the Court's docket which do raise some variation of this issue and it may well be that the Court will review one or more of the cases before permitting the resumption of executions in this Country.

The result of the procedural attack in these cases and the probable result of the substantive attack will no doubt change the focus of the capital punishment controversy from the constitutional attack in the courts back to the legislative front where it was fought over for so long. The most lasting, if the Court adheres to the decision and requires its observance by the lower courts, effect of this momentary change in tactics by anti-capital punishment foes has been the ruling in *Witherspoon* which has opened up juries throughout the country to scrupled persons; this may well have the effect of reducing the number of death sentences handed down, unless the Court permits less than unanimous verdicts on the issue.[10]

Whatever may be the long-term trends, the short-range prospect is the possibility that the absence of executions since mid-1967 is about to end.

FOOTNOTES

[1] I Sir James F. Stephen, *A History of the Criminal Law of England* (London: 1883), 457–78.

[2] E.g., Edwin Powers, Crime and Punishment in Early Massachusetts—1620–1692 (Boston; 1966), esp. ch. 9; Thorsten Sellin (ed.), *Capital Punishment* (New York: 1967).

[3] See, e.g., Justice Jackson's comment in *Stein* v. *New York*, 346 U.S. 156, 196 (1953): "When the penalty is death, we, like State court judges, are tempted to strain the evidence and even, in close cases, the law in order to give a doubtfully condemned man another chance."

[4] The lengthy *Maxwell* v. *Bishop* litigation primarily concerned this issue until the Supreme Court specifically excluded it in favor of the other issues. *Maxwell* v. *Stephens*, 229 F. Supp. 205 (D.C.E.D.Ark. 1964), *aff'd.*, 348 F. 2d 325 (C.A. 8, 1965), *cert. dem.*, 382 U.S. 944 (1965); *Maxwell* v. *Bishop*, 257 F. Supp. 710 (D.C.E.D.Ark. 1966). Maxwell's attempt to appeal to the Court of Appeals was rebuffed by both the District Court and the Court of Appeals but the Supreme Court directed that the appeal be heard. 385 U.S. 650 (1967). It was heard and rejected again. 398 F. 2d 138, 141–48 (C.A. 8, 1968). See also, *Moorer* v. *South Carolina*, 368 F. 2d 458 (C.A. 4, 1966).

[5] See the discussion of these points in National Commission on Reform of Federal Criminal Laws, *Working Papers* (Washington: 1970), vol. II, 1347, 1360–61; President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: 1967), 143; President's Comm. . . ., *Task Force Report, The Courts* (Washington: 1967), 27–8.

[6] Cf. Note, "The Cruel and Unusual Punishment Clause and the Substantive Criminal Law," 79 Harv. L. Rev. 635 (1966); Note, "Revival of the Eighth Amendment: Development of Cruel-Punishment Doctrine by the Supreme Court," 16 Stan. L. Rev. 996 (1964). See 1967–68 *Report*, pp. 124–135.

[7] Goldberg and Dershowitz, "Declaring the Death Penalty Unconstitutional," 83 Harv. L. Rev. 1773 (1970); Comment, "The Death Penalty Cases," 56 Calif. L. Rev. 1268, 1324–1354 (1968).

[8] In *Rudolph* v. *Alabama*, 375 U.S. 889 (1963), Justices Goldberg, Douglas, and Brennan dissented from a denial of certiorari, wishing to consider whether the Eighth Amendment permitted the imposition of the death penalty on one convicted of rape who had neither taken nor endangered life. Cf. Packer, "Making the Punishment Fit the Crime," 77 Harv. L. Rev. 1071 (1964). In *Ralph* v. *Warden*, No. 13, 757 (C.A. 4, December 11, 1970), the court held that imposition of the death penalty in such a case constituted cruel and unusual punishment.

[9] *Boykin* v. *Alabama*, 395 U.S. 238 (1969). Boykin had been sentenced to death by a jury after pleading guilty to five armed robberies in which no one was killed or injured. The Court reversed on a procedural grounds. Cf. 1969–70 *Report*, pp. 346–47.

[10] The grant of certiorari in *Crampton* and *McGautha* excluded the issue. 398 U.S. 936 (1970) Cf. *Swain* v. *Alabama*, 382 U.S. 944 (1965) (Justice Douglas dissenting).

[11] Note, "Trial by Jury in Criminal Cases," 69 Colum. L. Rev. 419, 432–449 (1969); Note, "Jury Selection and the Death Penalty: *Witherspoon* in the Lower Courts," 37 U. Chi. L. Rev. 759 (1970).

[12] *United States* v. *Jackson*, 390 U.S. 570

(1968), 1967–68 *Report*, pp. 256–61; Note, *op. cit.* n. 11, 69 Colum. L. Rev., 460–69.

[13] The Fifth Amendment's due process clause applies to the Federal Government and the Fourteenth Amendment's to the States. Cf. 1969–70 *Report*, pp. 196–210; Note, "The Death Penalty Cases," 56 Calif. L. Rev. 1268, 1415–1423 (1968).

[14] For the limitations briefly noted, cf. 1969–70 *Report*, pp. 370–74. On standards for jury capital sentencing, see American Law Institute, Model Penal Code (tent. Draft No. 9), 59–74; Working Papers, *op. cit.*, n. 5, 1366–1375. The National Commission on Reform of Federal Criminal Laws, *Final Report* (Washington: 1970), 313–15, recommended abolition of capital punishment but included a set of standards should it be retained.

[15] *Brady* v. *United States*, 397 U.S. 742 (1970); *Parker* v. *North Carolina*, 397 U.S. 790 (1970); *McMann* v. *Richardson*, 397 U.S. 759 (1970); 1969–70 *Report*, pp. 332–54; see esp. *id.* pp. 351–52, for comment on *Crampton*.

[16] In *Andres* v. *United States*, 333 U.S. 740 (1948), it was held that a federal jury must be unanimous in reaching a sentencing decision just as it must be unanimous on guilt. *Maxwell* v. *Dow*, 176 U.S. 581 (1900). But the latter requirement as a due process matter is being re-examined this Term and the former might be as well. *Johnson* v. *Louisiana*, No. 5161; *Apodaca* v. *Oregon*, No. 5358, 1970–71 *Report*, p. 90; cf. 1967–68 *Report*, pp. 254–56.

NEEDED: WAGE BOARD LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, the U.S. Government employs about 800,000 hourly workers, who represent virtually every kind of skill and experience to be found. Knowing this, you would expect that clear and comprehensive laws existed to govern the pay and benefits these workers receive—but that is not the case.

As a matter of fact, the pay arrangements for this army of workers are based solely on regulations and the powers that the executive considers its own inherent or derived authority.

But Congress has specific and comprehensive laws dealing with the pay and perquisites of every other kind of Federal employee—the military officers and enlisted men, the civil servants—and even the President of the United States. But the hourly workers have no such law to look to.

I believe that this is a grave omission, and it ought to be corrected. Last year Congress approved basic wage board legislation, only to see it vetoed. We have bills before us again which intend to resolve this question. I am sponsor of one such bill.

I believe that whatever we do, we must provide basic legislation governing the pay of hourly employees; they have a right to this, and we have an obligation to protect that right and honor it.

I also believe that any wage board legislation must provide certain basic principles, which I outlined in detail to the Committee on Post Office and Civil Service.

First, wage board legislation should provide for a national advisory council, where the problems of labor and management alike could be discussed and resolved. Although there is such a council now, legislation should be enacted to legalize it, and define its powers, duties, and responsibilities.

Second, the wage board legislation should spell out a system of grades and steps within grades, together with the times required for advancement on seniority—given satisfactory service—and with definite differentials between the steps. Any such provision ought to contain incentives that will encourage workers to advance; the present system is no system at all, and contains many disincentives—legislation such as I have proposed would remedy this.

Third, legislation should provide a uniform differential payment for the various shifts of work.

Fourth, we should provide in law the same kind of "saved pay" protection for hourly workers as we do other civil service employees who are forced to take lower grade jobs because of reductions in force. There should be no reason why one worker has this privilege and another does not.

Fifth, we should clarify and bring into its proper place the Monroney amendment. This important legislation enabled many workers to receive more adequate pay, pay that was commensurate—or more nearly so—with their skills than had been the case previously. We should retain this enactment and this protection, and make it a permanent part of any legislation governing wage board employees.

Finally, I believe that we should bring all nonappropriated fund employees under the wage board system that would be provided by my bill. These employees—and there are perhaps 143,000 of them—work on military bases in activities like post exchanges and officers clubs. Very often, you will find two people working side by side doing identical work, at differentials of $1 an hour or more—simply because one is a nonappropriated fund employee and the other is under the wage board. That is not right; we should assure that all workers in the military installations receive adequate pay, governed by Congress, and protected by statute. Bringing nonappropriated fund employees under the wage board system is absolutely essential to justice and equity.

Mr. Speaker, all of these points are stated more completely in the statement I provided to the Committee on Post Office and Civil Service last week. I commend the committee for its dedication, its hard work, and its outstanding achievements. I know that Chairman HENDERSON and his colleagues will bring the House a just bill—one that surely is needed, and which the committee has pressed for these many months.

Mr. Speaker, I ask consent at this point to make my statement to the committee a part of the RECORD:

STATEMENT OF HENRY B. GONZALEZ, MEMBER OF CONGRESS

Mr. Chairman: I am here to support my own bill, H.R. 5211 and similar bills that would provide for the first time systematic legislation governing the pay rates of the 800,000 or more Federal employees who are paid on an hourly basis—the so-called wage board or blue collar employees.

There are in my district perhaps twenty thousand people who would be directly affected by this legislation. These workers range from skilled aircraft technicians to warehouse employees and store clerks; they work on machines as complex as the mind of man has ever devised, and they also perform simple, hard labor—and carry out every kind of task in between. There are all kinds of workers who would be affected by this bill, but they all have a common grievance and a common need, and they all need this legislation.

All employees of the government, save wage board workers, have salary schedules that are set by statute, by Congress. These employees—soldiers, clerks, managers, technicians—all know that their pay is set by systematic legislation. But the wage board employees have no such legislation. They are paid through a system that has been entirely the creation of the Executive branch; the rules of pay are, for these employees, anything but systematic and anything but set in law.

This bill proposes in the first place to give wage grade employees the same kind of systematic law governing pay and benefits that covers every other Federal employee. This is only right.

I realize that the Administration feels that this legislation would take some of its powers away. That may be true, but it offers no reason for excluding these employees from the same kind of statutory pay legislation that governs every other Federal employee.

The Administration vetoed a bill similar to this one last year, saying that it was inflationary. But the same President who vetoed this legislation last year signed a far more costly pay raise for general schedule workers only a few days earlier. I believe it is incumbent on us to demand of the Administration a clear explanation of their desires—either they do not want legislation establishing hourly wage pay systems, or they want no pay raises, or they want something else. But we must demand that the Administration for once decide what it wants.

Aside from the desirablity of establishing a sound legal framework for wage board employees, this bill would provide for a number of other changes and benefits from the present system.

First of all, the bill would establish a national advisory council that would assist in establishing policy. This council would be composed of management and employee representatives alike, and would for the first time have clearly defined duties.

Second, the bill provides for an enlarged system of steps within pay grade, with automatic increases after stipulated lengths of satisfactory service. This enlarged structure of steps within each grade would greatly enhance the possibility for wage advancement for all workers, but especially for those in the lower ends of the wage scale. This increased number of steps would give all workers incentives for better performance; it would ease the feeling that too many employees now have, of being "dead-ended".

Third, the bill provides defined pay differentials for various shifts. This would establish a uniform system for shift differentials across the country—something that is badly needed.

Fourth, the bill would provide the same kind of "saved pay" protection for hourly workers that is now given to general schedule employees who are forced to take a reduction in grade due to cutbacks in the personnel force.

Fifth, the bill clarifies and makes permanent the provisions of the Monroney Amendment.

This is especially important to employees in my district. Before the enactment of the

Monroney Amendment, it was not unusual for me to find an extremely skilled craftsman performing work at wages far below anything that resembled fair rates, for the simple reason that the local industry surveys could not locate jobs in private industry that were similar. With the Monroney amendment, the wage board surveys can be made outside the local areas, so that comparable jobs are actually used to determine what the pay rate actually should be.

I might digress here to say that the wage board system in general creates serious inequities for workers in my district.

Those who established the wage board system probably believed that most workers would be engaged in jobs that are similar to jobs performed in the local private market. But in fact this is not always so.

In the case of the biggest wage board employer in my district, Kelly Air Force Base, we have a very large industrial type operation. But the San Antonio economic structure is not that of a large industrial area; it is dominated by retail and service type industries. In fact, San Antonio manufacturing employees only make up about 16% of the whole local work force—about 10% less than you would find in most cities of similar size. So the area wage system in San Antonio is attempting to find industrial pay rates in an economy where industry in abnormally low in size. The result is that a wage board worker is San Antonio may make about twenty or even thirty per cent less than the same kind of wage board worker in the town of Corpus Christi, only a hundred and fifty miles distant.

The reason is that in Corpus Christi there are industries to be surveyed that do offer higher pay. Ironically, though, the overall economic structure in that city, in terms of unemployment and median income, is not significantly different from that of San Antonio.

This is an injustice that may be inevitable as long as we have a pay system that is governed by local labor market rates. It is a problem that the Committee should study. The very least that Congress can do about this situation is to insure that the Monroney Amendment is made part of the basic wage board legislation, because that measure has done more than anything else to bring about equity.

Finally, this bill will bring into the wage system the non-appropriated fund employees, who now number about 143,000 persons.

A good number of non-appropriated fund activity employees live and work in my district. I have found that in many cases they are vastly underpaid, even though the Exchange Service—which employs most of them—claims that these persons are paid on a comparable level with people having similar jobs in private industry. Under existing circumstances, it is possible in my district for two people driving a forklift truck in virtually the same warehouse to have a pay differential of $1.00 or more per hour—and the non-appropriated fund employee is right when he can't understand why it is that his work earns him so much less than a wage board employee gets for the identical task. I cannot understand this kind of inequity either.

Just as Congress insisted on coordinated wage board rates, so that a GSA janitor and a Defense Janitor in the same town now get the same pay—so should we insist that non-appropriated fund employees enjoy the same kind of coordinated pay. That is what would result from this provision of the bill. It is just, it is right, and it is needed. I urge the Committee to support this concept.

The bill that the Committee reports will no doubt differ in many respects from the one that I have introduced. But I believe that we are agreed on the basic concepts that wage board legislation should contain, and I am confident that the general principles in my bill will be endorsed by the Committee.

Mr. Chairman, this wage legislation is urgently needed, more so now than a year ago. I am grateful for the opportunity to appear here, and I am grateful for the thorough and diligent efforts that you and your Committee have undertaken on this legislation in the past. I know that you will act promptly on this bill, because I know that you agree with me that justice delayed is justice denied—and this legislation is only simple justice.

THE $3 BILLION RAPID DEPRECIATION GIVEAWAY—CONGRESS SHOULD NOT BE BYPASSED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, the administration proposes to reduce corporate income taxes by $3 billion a year by allowing business property to be depreciated more rapidly.

Most independent legal authorities have concluded that existing law does not permit such a drastic change in corporate tax liability solely by administrative action. If it is to be done at all, it must be done by Congress and not by administrative fiat under the guise of issuing "interpretive" regulations.

Representative CHARLES VANIK will present a resolution to the Democratic caucus this Wednesday urging the Democratic members of the Ways and Means Committee to act promptly to bring to the floor of the House a measure "either prohibiting or explicitly authorizing" the Treasury's proposed depreciation regulations. Such action would enable Congress to retain its constitutional authority "to lay and collect taxes" in the face of this challenge from the executive.

The legal and constitutional issues have been well discussed by Boris I. Bittker, Sterling Professor of law at Yale University, in statements submitted to the Treasury last month. Professor Bittker's initial April 5 statement was responded to in an April 12 statement prepared by the law firm of Covington & Burling. The Covington statement was inserted in the CONGRESSIONAL RECORD for April 28, 1971, by the gentleman from Illinois (Mr. ANDERSON)—pages 12346–12351. Subsequently Professor Bittker submitted a rebuttal to the Covington statement.

I ask that both of Professor Bittker's statements be included in the RECORD at this point:

RE: TREASURY AUTHORITY TO ISSUE THE PROPOSED "ASSET DEPRECIATION RANGE SYSTEM" REGULATIONS

(By Boris I. Bittker, Sterling Professor of Law, Yale University)

To: Commissioner of Internal Revenue, Washington, D.C. Attn: CC:LR:T

On March 12, 1971, the Treasury Department issued proposed regulations to implement the liberalized system of depreciation for machinery, equipment and certain other property—the Asset Depreciation Range or ADR System—announced by President Nixon and former Treasury Secretary David M. Kennedy on January 11th. Mr. Kennedy asserted that the ADR System was "based on an intensive study by the Treasury Department and its Internal Revenue Service of steps needed to provide greater investment incentives and for job creation." He also stated:

"The reform of depreciation policy will encourage business to increase its investment in new machinery and equipment, and by providing significant tax reductions in 1971 and subsequent years, will help business accumulate the capital required for investment. As a result, our economic growth will be stimulated strongly and many new jobs created for those who are now unemployed or who will enter the work force in the future. Every American—manufacturers, farmers, miners, storeowners, professional and service companies, all others and those who work therein—will benefit.

"By liberalizing and simplifying the depreciation provisions of the tax law, we also have taken a needed step to help U.S. businesses to modernize their productive facilities and keep abreast of rapidly changing technology. New and better equipment in American industry will bring increased productivity, and a strengthening of the competitive position of our country's goods in world markets."

The purpose of this paper is to determine whether the Treasury Department has the authority to adopt these measures by the issuance of regulations under existing law, without further action by Congress in the form of enabling legislation.

A. The "Asset Depreciation Range System"

The ADR System consists of four interrelated departures from the existing depreciation rules:

1. "Range" of depreciable lives. The ADR System grants an election under which taxpayers may depreciate assets over a period selected by them, within a range specified for designated classes of assets. The range allowable under this "Asset Depreciation Range System" runs from 20 percent below the present guideline lives (promulgated in 1962) to 20 percent above these lives. The ADR System applies only to assets that are placed in service after December 31, 1970, and it excludes (a) buildings and their structural components (with some exceptions, discussed below) and (b) property used outside the United States.

2. Write-off of certain rehabilitation and improvement expenditures. A taxpayer who elects to depreciate eligible property under the ADR System is granted a further election, in the form of a special "repair allowance." This is a privilege to deduct expenditures for the "repair, maintenance, rehabilitation, and improvement" of eligible property (up to a specified amount, and subject to an exception for "excluded additions," described below), even though part or all of the expenditures would otherwise have to be treated as capital improvements under § 263, with the result that (absence an election) they could not be deducted currently but would instead have to be depreciated over an appropriate period of years. The privilege is exercisable annually; it covers deductible repairs as well as non-deductible rehabilitation and improvement expenditures, and requires the electing taxpayer to capitalize any such amounts in excess of the applicable repair allowance. The "repair allowance" was not described by the President or Mr. Kennedy in their January announcements of the ADR System, but was unveiled for the first time in the proposed regulations.

3. "First-year convention." In the year of acquisition, eligible property will entitle the taxpayer to either a full year or a half year of depreciation, depending upon whether it is placed in service in the first half or second half of the year. This election will be an alternative to the "half-year" convention of existing law, under which half a year's depreciation may be taken for all assets placed in service during a given year.

4. Termination of the "reserve ratio test." The "reserve ratio test," promulgated in 1962 as a backstop to the reduced guideline lives then announced, is to be terminated for post-1970 years under regulations to be issued "in the near future."

The proposed regulations also contain rules relating to the salvage value and retirement of property depreciated under the ADR System.

In my opinion, for the reasons set out below:

(a) The Treasury does not have the statutory authority to permit taxpayers to depreciate assets over the ranges proposed by the ADR System or to deduct rehabilitation and improvement expenditures as part of a "repair allowance;" and

(b) If interpreted to support these aspects of the ADR System, the statutory provisions on which the Treasury relies would equally support the most extraordinary departures from widely-accepted principles regarding the division between current expenditures and capital items in the computation of taxable income.

B. The revenue impact and economic objectives of the ADR System

Before setting out the basis for these conclusions, I wish to call attention to the revenue impact and economic objectives of the ADR System. These aspects of the ADR System are so drastic in their implications as to raise, in and of themselves, serious questions about the Treasury's authority to issue the proposed regulations without explicit Congressional authority.

1. Revenue loss. The Treasury estimates that the revenue loss from the ADR System will start at $0.8 billion in fiscal 1971, and will range thereafter from $3.0 billion in fiscal 1972 to $3.8 billion in fiscal 1980, with a high of $4.7 billion in fiscal 1976.

I do not recall any action by the Treasury in prior years under any of the statutory sources on which it now purports to act, or indeed under any other provision of the Internal Revenue Code, with such momentous revenue consequences. While Congress might perhaps vest the Treasury with this extraordinary authority over the level of federal revenue collections—authority that is a first cousin to the power to fix the tax rates themselves—the Treasury's claim that it *now* has the power by regulations to alter revenue collections by $35 billion or more in a decade calls for close scrutiny.

An instructive parallel may be found in the enactment by Congress, in 1954, of Sections 452 and 462 of the Internal Revenue Code of 1954, designed to bring tax accounting into closer harmony with business accounting by permitting taxpayers to postpone the recognition of prepaid income and to deduct reserves for estimated expenses. When the Treasury concluded that these provisions would cause a larger loss of revenue than estimated, it rushed to Congress with an urgent request, which was granted, for repeal of the provisions. In contrast to the panic induced in the Treasury by the possibility of a *one-time* transitional loss of several billion dollars (an estimate that the Congressional committees thought was too high), we now have a claim by the Treasury that it can, on its own initiative, court a *continuing* loss, estimated to range from $0.8 to $4.7 billion each year for at least 10 years.

The Treasury, to be sure, predicts that increased business activity and employment "will provide substantial additional feedback revenues to offset these reductions." This is of course a standard—virtually boilerplate—accompaniment to proposed tax reductions. Giving the fullest possible weight to these countervailing forces, the fact remains that the Treasury proposal entails such enormous revenue consequences that one may properly ask: "Did Congress really authorize this trip?"

2. "Interpretative regulations" or basic fiscal policy-making? Under § 7805, authorizing the Secretary of the Treasury to "prescribe all needful rules and regulations for the enforcement of this title," ambiguities and uncertainties in the Internal Revenue Code can be resolved; and such "interpretative" regulations are entitled to great weight. See Koshland v. Helvering, 298 U.S. 441 (1936):

"Where the [revenue] act uses ambiguous terms, or is of doubtful construction, a clarifying regulation or one indicating the method of its application to specific cases not only is permissible but is to be given great weight by the courts. And the same principle governs where the statute merely expresses a general rule and invests the Secretary of the Treasury with authority to promulgate regulations appropriate to its enforcement. But where. . . . the provisions of the act are unambiguous, and its directions specific, there is no power to amend it by regulation."

This modest role for regulations—either in gaps deliberately left by Congress to the interpreting an ambiguous statute or filling the sweeping objectives of the ADR System, administrator—is not easily reconciled with as announced by the President and the Treasury, viz., to create jobs, promote economic growth, strengthen our balance of payments, increase productivity, and modernize productive facilities. Of course, a valid regulation is not undermined by the fact that it simultaneously serves broad economic objectives. At the same time, however, these dramatic claims for the ADR System properly invite an inquiry into whether the Treasury, in its conviction that the national economy needs a shot in the arm, has forgotten to ask Congress for permission to administer the stimulant.

3. Administrative substitute for the investment credit? The possibility that the Treasury has exceeded its authority is heightened by the strong resemblance that the ADR System bears to the investment credit, which was repealed by Congress, after ample debate, in 1969. Thus, the ADR System applies only to so-called "eligible property," which is defined by reference to the two major criteria employed by § 48 in defining the property that was eligible for the investment credit. These criteria, enacted by Congress to define "investment credit property" and adopted by the ADR regulations to define "eligible property"—are as follows:

(a) The property must be either tangible personal property, or other tangible property (not including buildings and their structural components) if (1) used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communication, electrical energy, gas, water, or sewerage disposal services, or (2) constituting a research or storage facility for the foregoing activities. Save for the omission of a provision relating to elevators and escalators, these requirements are taken from the general definition of "investment credit property" in § 48(a)(1). In that context, they embodied a judgment by Congress that the acquisition of these types of property—and not other types—should be encouraged by a deliberate offer of a tax incentive. The lines of demarcation, however, make no sense whatsoever if the ADR regulations are intended to reflect the impact of technological or economic change on the useful service lives of business equipment. They can be understood only as the result of a Treasury decision that investment in particular types of property should be encouraged by a tax incentive, and that other types of property are not deserving of this incentive. This decision may be sound as a matter of fiscal policy, but it can hardly be defended as an "interpretation" of the Internal Revenue Code.

(b) The second criterion of "eligible property" is that it must be "predominantly used within the United States." Here again, the proposed ADR regulations turn to the definition of "investment credit property," incorporating by reference the elaborate rules of § 48(a)(2) and the regulations issued thereunder. If the ADR rules were intended to reflect the impact of technology on the useful service lives of business equipment, they would not require a taxpayer to distinguish between equipment used in Buffalo and the same equipment used in Toronto, between a vessel documented under the laws of the United States and the same type of vessel documented under the laws of Liberia, or between a truck driven between Toronto and Buffalo and the same truck if driven between Toronto and Montreal. All of these distinctions were thought by Congress to have an appropriate place in the investment credit, which was designed to encourage domestic investment only in order to improve our international competitive position. The same rules might be equally appropriate if Congress decided either to restore the investment credit, or to provide a substitute for it by authorizing the fast amortization of business equipment. Their use by the Treasury reinforces the conclusion that it is seeking by regulation to provide a substitute for the investment credit.[1]

This attempt would be suspect in any event, but it is made even more dubious by the language used by the Senate Finance Committee in recommending repeal of the investment credit as part of the Tax Reform Act of 1969:

". . . even though an investment credit may have been useful in the past in inducing investment in periods when there was a large deficiency of investment, it is not clear that the same type of problem will be faced in the future. For this reason also, the committee concluded that it was better to repeal the credit, rather than suspend it. *If the need should, in the future, arise for a further stimulant to investment, the Congress will then be free to consider various alternative types of treatment.* Moreover, it is not clear, once the appropriate rate of investment has been restored, whether in the future special inducements to investment will again become necessary. It may well be that the normal incentives of potentially greater profits in the context of a stable growth, full employment economy will provide the investment needed without resort to special devices to stimulate investments which, on occasion, appear to give rise to investment booms." (S. Rept. No. 91–552, p. 226; emphasis added.)

4. Administrative adoption of cost recovery method? The ADR System bears a striking resemblance to the "cost recovery" method of accounting for capital outlays. Indeed, President Nixon described the proposal as "consistent with the recommendations of the President's Task Force on Business Tax-

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[1] The dollar advantage of permitting taxpayers to depreciate their business equipment 20% faster than the 1962 guideline lives depends upon the life of the asset, the method of allocating depreciation, the salvage value, and the taxpayer's tax rate and time preference for money. A 1969 Treasury study (Tax Depreciation Policy Options: Measures of Effectiveness and Estimated Revenue Losses, Congressional Record, vol. 116, pt. 19, p. 25684) estimates that a 40 percent reduction in the 1962 guideline lives is equivalent to a reduction in the price of the asset of 6.8 to 8.7 percent, assuming an unadjusted useful life of 10 to 20 years, a tax rate of 48 percent, and an after-tax rate of return of 12 percent. A 20 percent reduction, as proposed by the ADR System, would of course be less advantageous, but it would be augmented by four other factors: (1) the opportunity to deduct rehabilitation and improvement expenditures by electing the "repair allowance," (2) the elimination of the reserve ratio test, so that a taxpayer can apply the 20% reduction to the 1962 guideline lives even if they are shorter than the actual service lives of his assets, as reflected by his replacement experience, (3) the liberalized first-year convention, and (4) the ADR System's more tolerant treatment of salvage values.

ation," whose central recommendation was that "for machinery and equipment, the present depreciation system be replaced by a simplified system of cost recovery allowances" over periods 40 percent shorter than the 1962 guidelines. This idea has of course been in the air for some time; another recent instance is the 1969 proposal of the ABA Section of Taxation (Committee on Depreciation and Amortization) for cost recovery periods "which will be shorter than useful lives for most taxpayers and which will apply uniformly without regard to individual taxpayers' actual experience." Both the President's Task Force and the ABA Committee, however, candidly acknowledged that their proposals required legislative change; neither suggested that the Treasury had the power by regulations to substitute a cost recovery system for the depreciation rules of current law. In the wake of these proposals for legislative action, an attempt by the Treasury to accomplish substantially the same objectives in substantially the same manner raises, in acute form, the question whether it is treading on thin ice. The ADR System, in short, seems to be an application of the cost recovery mechanism, which has not yet been sanctioned by Congress, to the classes of property that qualified for the investment credit, which was repealed by Congress only a few months ago.

C. "Useful Service Lives" and the Artificial Lives of the Proposed Regulations

In assessing the Treasury's authority to issue the ADR System regulations, I start with the fact that the *useful service life* of an asset (or class of assets) is central to the statutory and accounting concept of depreciation. Although the determination of this period requires an estimate, and often a difficult one, the Internal Revenue Code does not authorize the taxpayer to collect, or Treasury to accept, an artificial period of time, unrelated to the asset's useful life, as the proper period for depreciating its cost or other basis. As I will point out in more detail later, when Congress has wanted to authorize an artificial period for writing off the cost of an asset (e.g., 60 months for World War II "emergency facilities"), it has enacted a statutory exception to the general rule that "useful life" is controlling; so far as I know, it was never even suggested that the Treasury could have authorized such an exception under any of the statutory provisions cited in support of the ADR System.

The importance of the assets' "useful life" has been frequently recognized. The Internal Revenue Code uses the phrase in many places, e.g., § 167(b), (c), (d), and (f). As long ago as 1927, the Supreme Court, in an opinion by Mr. Justice Brandeis, pointed out that consistently since 1913, revenue acts have provided an allowance for depreciation that is related to the property's useful life:

"The amount of the allowance for depreciation is the sum which should be set aside for the taxable year, in order that, at the end of the useful life of the plant in the business, the aggregate of the sums set aside will (with the salvage value) suffice to provide an amount equal to the original cost." (United States v. Ludey, 274 U.S. 295)

This statement has for many years been paraphrased, with minor amplifications, in the basic Treasury Regulation on depreciation. See Regs. § 1.167(a)–1(a). The crucial importance of the asset's useful life in the allocation of depreciation has been noted in numerous other instances. Thus, Bulletin F (the standard IRS guide to depreciation for many years) provided:

[T]he period over which [depreciation] extends is the normal useful life of the asset.

The same idea was repeated when Bulletin F was supplanted by Rev. Proc. 62–61, 1962–2 C.B. 418, 429:

The purpose of the [depreciation] allowance is to permit taxpayers to recover through annual deductions the cost (or other basis) of the property over its useful economic life.

In explaining the 1962 guidelines, Rev. Proc. 62–21 employed a series of hypothetical questions and answers, including:

3. *Question:* At present, depreciation is based on the useful life of property in the taxpayer's own trade or business. How does this depreciation reform affect this approach?

Answer: The depreciation reform retains this approach. Every taxpayer should continue to base his depreciable lives on his own best estimate of the period of their use in his trade or business. The new reform provides guideline lives, based on analyses of statistical data and engineering studies and assessments of current and prospective technological advances, for each industry in the United States. The guidelines which have been developed are felt to provide reasonable standards for taxpayers in the various industries and if used will be presumed to be acceptable unless subsequent events show that they are not appropriate for a particular taxpayer's circumstances.

In Massey Motors, Inc. v. United States, 364 U.S. 92 (1960), the Supreme Court held that depreciation is to be calculated over the estimated useful life of the asset while actually employed by the taxpayer. . . .

This holding was buttressed by repeated statements in the opinion to the same effect, which were encapsulated by the Court's description of existing depreciation law as "a system where the real salvage price and actual duration of use are relevant." Finally:

We therefore conclude that the Congress intended that the taxpayer should, under the allowance for depreciation, recover only the cost of the asset less the estimated salvage, resale or second-hand value. *This requires that the useful life of the asset be related to the period for which it may reasonably be expected to be employed in the taxpayer's business.* (Emphasis added.)

Finally, as recently as last July, in a Treasury memorandum sent to Senator Javits by Secretary Kennedy that discussed the "policy options" open to the Treasury in the depreciation area, the statutory rules governing depreciation were summarized as follows:

These rules, in general, specify that the aggregate of all depreciation deductions which may be taken by a business taxpayer may not exceed the difference between the original cost, or other basis, of the asset and its salvage value, *and that this depreciable basis must be apportioned over the estimated useful life of the asset* by a consistent method. (Congressional Record, vol. 116, pt. 19, p. 25684).

The Supreme Court's comment in Fribourg Navigation Co., Inc., v. Commissioner, 383 U.S. 272 (1966), about the taxpayer's right to deduct depreciation in the year a depreciable asset is sold, is applicable *a fortiori* to the principle that depreciation is to be spread over the period of an asset's useful life in the taxpayer's business:

Over the same extended period of years during which the foregoing administrative and judicial precedent was accumulating, Congress repeatedly reenacted the depreciation provision without significant change. Thus, beyond the generally understood scope of the depreciation provision itself, the Commissioner's prior long-standing practice must be deemed to have received congressional approval.

Against this background, I conclude that the "range of lives" sanctioned by the ADR System exceeds the Treasury's authority in two respects:

1. It provides for an artificial decrease or increase in average useful lives (as estimated by the 1962 guidelines) by 20 percent, unrelated to actual changes in the underlying facts; and

2. It permits taxpayers to employ these artificially-altered averages without regard to the separate circumstances of their own businesses.

Neither of these "reforms" finds any support, in my view, in the statutory provisions cited by former Secretary Kennedy, when he described the ADR System in his news conference on January 11, 1971:

1. Section 167(a), providing for a reasonable allowance for the exhaustion and obsolescence of business assets, must, of course, be interpreted in the light of the well-established rules of depreciation, including the principle that the allowance is to extend over the useful life of the assets. In point of fact, Section 167(b)—not mentioned by Mr. Kennedy in his statement—authorizes the Treasury to prescribe regulations governing depreciation "methods and rates," but pointedly provides that no method may be prescribed that will provide an allowance *during the first two-thirds of the useful life of the property* greater than would be provided by the statutory declining balance method. This restriction on the Treasury's authority would be utterly nugatory if the Treasury could itself prescribe an artificial "useful life" for assets. Congress deliberately provided that property must have "a useful life of 3 years or more" to qualify for rapid depreciation under Section 167(b) and for the liberal salvage value computation of Section 167(f), and "a useful life of 6 years or more" to qualify for the additional first-year depreciation under Section 179. These—and a number of other Congressional restrictions based on the useful life of property—are utterly inconsistent with the theory that the Treasury can confer an artificial useful life on property.

2. *Sections 446, 451 and 461,* also cited by Mr. Kennedy as sources of authority for the ADR System, are even less applicable than Section 167. Section 446(b) permits the Treasury to prescribe a method of accounting if a taxpayer's own method does not clearly reflect income; this provision is obviously inapplicable. Section 446(c) permits the Treasury to authorize a combination of certain accounting methods specified by the Code itself, and is equally inapplicable to the ADR System. Section 451, relating to the taxable year in which items of *gross income* are to be included, has nothing to do with deductions, and makes no mention of regulations. Finally, Section 461 provides that deductions are to be taken "for the taxable year which is the 'proper' taxable year under the method of accounting used in computing taxable income." Like Section 451, it makes no mention of regulations to be issued by the Treasury; still less, does it permit the Treasury to override generally accepted principles of depreciation accounting.

3. *Section 7805* authorizes the Treasury to prescribe "all needful rules and regulations for the enforcement of this title." This is obviously a provision of broad import, but it does not supplant the substantive provisions of the code, such as Section 167's rules regarding depreciation. If construed to permit the Treasury to adopt the artificial useful lives for depreciable assets prescribed by the ADR System, it could be employed with equal plausibility to reduce—or increase—useful lives by 50 percent, to provide a uniform 3-year "useful life" for all assets, to authorize capital investments to be written off in the year of acquisition, or to permit assets to be deducted only in the year they are retired from service.

Under the broad authority claimed by the Treasury, it would not have been necessary for Congress to enact any of the numerous provisions for the rapid amortization or immediate write-off of particular expenditures that have been added to the Internal Revenue Code in recent years, since the Treasury—by virtue of its alleged power to decide

when capital investments are to be written off—could have provided the same benefits by regulations. I refer here to such provisions as § 174 (research and experimental expenditures), § 175 (soil and water conservation expenditures), § 177 (trade mark and trade name expenditures), § 179 (first-year depreciation allowance for small business), §§ 180–181 (fertilizer and clearing of land), §§ 184–185 (railroad rolling stock and grading expenditures), and § 248 (corporate organizational expenditures).

The foregoing discussion has focussed on the ADR election to use useful lives that are *shorter* than the 1962 guidelines. My comments are, however, equally applicable to the election to use artificially *long* lives, since they are also inconsistent with the previously unquestioned principle that depreciation is to be taken over the useful service life of the asset in the taxpayer's business. Indeed, there is an additional objection to an artificially long life, viz., Section 1016(a)(2), requiring the adjusted basis of property to be reduced by depreciation "allowable under this subtitle or prior income tax laws." The clear import of this statutory rule—which the Treasury has been given no authority to suspend or nullify—is that the taxpayer cannot "save" depreciation that is allowable under the law for the current year, in order to use it in a later year.

Finally, I wish to comment on the "repair allowance" authorized by the Treasury in the ADR regulations. It is, at bottom, an election under which the taxpayer may write off, in the year incurred, certain expenditures for the rehabilitation and improvement of property that, under Section 263, constitute capital outlays. This inconsistency with the statute is transparently clear; if Section 263 did not forbid a deduction for these expenditures, the taxpayer could deduct them without making the "repair allowance" election, and could take similar deductions for comparable expenditures to rehabilitate and improve real property or other assets that do not qualify for the ADR System. The proposed regulations acknowledge this departure from Section 263 in a curious way: they provide that rehabilitation and improvements expenditures (so-called "excluded additions") do not qualify for the "repair allowance" if they add an identifiable unit of property, or modify existing property to a substantially different use, or substantially increase its original productivity or capacity.

This effort to distinguish among capital outlays has no statutory foundation whatsoever; Section 263 does not provide that some capital expenditures are more nondeductible than others.

One more point: if the Treasury had the power to convert capital expenditures into deductible expenses (under such provisions as Sections 446, 451, 461, or 7805), it could take far more drastic action than the proposed "repair allowance." Its alleged authority would, with equal plausibility, permit a "repair allowance" that was not restricted to a fraction of the asset's adjusted basis, that covered so-called "excluded additions," and that embraced real property as well as property qualifying for shortened lives under the ADR System. The Treasury's alleged authority would also have enabled it to promulgate the rules of Section 263(e) (rehabilitation of railroad rolling stock deductible despite Section 263) without Congressional action.

In addition to permitting taxpayers to deduct capital outlays, the "repair allowance" can also have the converse effect, viz., allowing the taxpayer to capitalize deductible repair expenses, instead of deducting them, if they exceed the applicable annual limit. This attempt by the Treasury to permit taxpayers to avoid the effect of Section 162 if they have an excess of current deductions is as objectionable as its attempt to permit capital outlays to be deducted currently. Among other things, it violates the intent of Section 172, under which excess deductions create an operating loss that can be carried forward for only a limited number of years. It also implies that the Treasury could, if it so desired, authorize taxpayers to capitalize repair expenses at will.

The distinction between non-deductible capital outlays and currently deductible expenses is so vital to the proper measurement of taxable income that statutory departures from the principle, even if motivated by policy considerations, are widely acknowleged to be tax preferences. Thus, the following items are either defined as "items of tax preference" by Sections 56–58 (imposing a minimum tax on tax preferences) or were proposed by the Treasury or the House Ways and Means Committee for somewhat comparable corrective treatment:

Accelerated depreciation on § 1250 property.

Accelerated depreciation of § 1245 property subject to a net lease.

Rapid amortization of certified pollution control facilities under § 169.

Rapid amortization of railroad rolling stock under § 184.

Excess of depletion over basis.

Deduction under §§ 175, 180, and 182, and Regs. § 1.61–4 and § 1.162–12 of farm expenditures that would be capitalized under normal accounting principles.

Deduction of intangible drilling and development costs.

With the 1969 battle over tax preferences still so lively in our memory, it is ironic to find that the Treasury is already proposing to add two new candidates—artificial lives for certain depreciable assets and the current deduction of some rehabilitation and improvement expenditures—to next year's list of tax preferences.

It so happens that the Treasury, on a memorable prior occasion, sought to allow taxpayers to write off, as a business expense, expenditures that under conventional accounting principles would be capitalized: I refer to the Treasury's pre-1945 rules permitting intangible drilling and development costs to be deducted. In F.H.E. Oil Co. v. Commissioner, 147 F.2d 1002 (5th Cir. 1945), this option was held to be invalid:

> A regulation giving the option which is in dispute has existed, with increasing complexity, since 1918, and has recently been broadened. The legislative mind of the Treasury Department seems determined to maintain the option. The administrative mind, represented by the Commissioner and his lawyers, and supported generally by the courts, is bent on whittling it away. The question of its validity has seldom been raised, the taxpayers not wishing to attack it because it favors them, and the Commissioner not being in position to repudiate the regulation of his own department. The judges have not thought it their business to raise the question; but if the option be in truth contrary to the revenue statutes, it is void, and it is the duty of the judges to declare and uphold the law, and disregard the regulation.

The court held that the option was inconsistent with § 24(a) of the 1939 Code (the statutory predecessor of § 263(a)), forbidding a deduction for amounts paid "for permanent improvements or betterments made to increase the value of any property or estate"—an objection that is equally applicable to the artificial useful lives and the repair allowance contemplated by the ADR System. Moreover, in the *F.H.E.* case, the court held that the drilling expense option was invalid even though the statute explicitly provided for "a reasonable allowance for depletion and for depreciation of [mine] improvements . . . to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary."[2] In permitting capital investments to be written off (in the guise of the proposed "repair allowance") or to be amortized over an artificially shortened period, the ADR System does not have even this statutory sanction; and is hence even less defensible than the regulations that were held to be invalid in the *F.H.E.* case.

Two further observations are in order:

1. It is clear that the change in useful lives by the ADR System is not attributable to technical and engineering studies establishing that the 1962 guidelines are inaccurate. For one thing, the 1962 guidelines cannot be *simultaneously* too long and too short, so as to justify a free choice within the "range" allowed by the ADR System. It is even more fantastic to suggest that the 1962 guidelines are both too short and too long for the special classes of property qualifying under the regulations (primarily tangible personal property used in the United States), but correct for other types of property. The deliberate disregard by the ADR System of actual service lives reaches its zenith in the treatment of public utility assets. Under the proposed regulations, certain public utilities may elect the 20 percent shortened lives only if they "normalize" the tax deferral resulting from the election, an accounting practice that has a bearing on the utility's rates but that obviously has no impact on the useful lives of its assets. The proposed regulation is, of course, patterned on Section 167(1), which reflects a *Congressional* decision to relate the federal tax liabilities of public utilities to their rate-making bases—but this provides no foundation for a Treasury decision to link the useful life of an asset to the taxpayer's accounting practices.

Even if the ADR System were confined to a reduction of the 1962 guidelines, and were generally available, it would be difficult to attribute the proposed change to technological developments since 1962; it strains credulity to assert that *all* 1962 guidelines are out of line *by the same 20 percent error.* Finally, the ADR System applies only to as-

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[2] Although the court later confined its decision to a holding that the taxpayer did not come within the scope of the regulations, this restriction stemmed from the fact that the regulations had been in force for twenty years, obviously with the full knowledge of the appropriate legislative committees if not of Congress itself; and it was accompanied by the announcement that "we see no fault in our previous reasoning, and think the former opinion a right one to have been rendered twenty years ago." F.H.E. Oil Co. v. Commissioner, 149 F.2d 238 (5th Cir. 1945); see also a later installment of the same litigation, 150 F.2d 857 (5th Cir. 1945), refusing to reconsider despite a Congressional joint resolution, endorsing the regulations.

An earlier case had upheld the validity of the regulations, but because in the court's opinion the taxpayer's expenditures for drilling did not *in fact* increase the value of the taxpayer's property: "The truth is that the hole upon which the money is expended is simply a means of reaching the oil sands, and it is the oil which increases the value of the property." To the extent that the issue was debatable, the court concluded that there was room for an interpretative regulation, and that in any event the repeated reenactment of the statute after the regulations were promulgated constituted "almost conclusive proof" of Congressional approval of the regulations. Ramsey v. Commissioner, 66 F.2d 316 (10th Cir. 1933). It is a reasonable inference from the *Ramsey* case that if the expenditure had produced a capital investment or if the regulations had been newly promulgated, the court would have been less tolerant.

sets physically placed in service in 1971 and later years. If technological changes have made the 1962 guidelines too long for assets placed in service in 1971 and later years, however, they must be even *more* inaccurate for assets now in service. Yet no correction is authorized for existing assets. In this connection, it should be pointed out that there have been few litigated cases challenging the 1962 guidelines, and I know of no evidence that many taxpayers have endeavored even at the administrative level to establish that they are too long. The complaints directed at the reserve ratio test, indeed, imply that assets are not being replaced as fast as their guideline lives expire; and the ABA cost recovery proposal described earlier states flatly that the lives prescribed by the 1962 guidelines "were purposely shorter than 'actual lives' in effect for most taxpayers," so that since 1962 "the tax system has in fact been operating on the basis of prescribed lives shorter than 'actual lives.'"[3] Finally, the President's Task Force on Business Taxation, which offered persuasive evidence that foreign cost recovery periods are shorter than ours, offered no evidence that the guidelines are longer than *actual* lives. Indeed, its assertion that United States industrial equipment is dangerously obsolescent in some industries suggests that actual useful lives are even *longer* than the 1962 guidelines.

2. No doubt the Internal Revenue Service could properly announce that it will, in general, not re-examine useful lives falling within a specified range of the 1962 guideline lives, in order to focus its audit resources on other areas of dispute. A precedent for such a decision may be found in the IRS state sales tax tables, setting out the amounts that may ordinarily be claimed as deductions, without substantiation, by taxpayers at various income levels. The Service reserves, however, its right to require substantiation in appropriate cases. In my opinion, this power could not be effectively renounced by the IRS under existing law; since the Code clearly contemplates that errors on returns can be corrected at any time until the statute of limitations runs, unless a compromise or closing agreement is executed between the taxpayer and the IRS.[4] The useful lives promulgated by old Bulletin F and later by the 1962 guidelines both acknowledged this inability to convert an audit rule-of-thumb into a binding rule of law, by permitting the announced lives to be re-examined if circumstances so required.

Even if, contrary to the foregoing reasoning, the IRS had the power to establish conclusive administrative rules of thumb in the tax area, this power—like all authority to issue regulations— would have to be exercised in a reasonable fashion. I doubt that anyone would seriously argue that the reduction in administrative friction and cost achieved by the ADR System could justify a $3 or $4 billion annual reduction in federal revenue. It is perfectly obvious from the Presidential Treasury announcements that this price is to be paid for the ADR System's anticipated impact on the national economy, not for its administrative virtues. Viewed as a substitute for the investment credit—the context within which the President's Task Force on Business Taxation recommended a reform of depreciation policy—the ADR System may be a desirable way to step up the pace of business investment, *but this is a decision that should be made by Congress.*

TREASURY AUTHORITY TO ISSUE THE PROPOSED "ASSET DEPRECIATION RANGE SYSTEM" REGULATIONS—A COMMENT ON THE COVINGTON & BURLING MEMORANDUM

(By Boris I. Bittker, Sterling professor of law, Yale University)

Supplementing my prior memorandum on the ADR regulations, I wish to comment on the Covington & Burling memorandum of April 12, 1971, whose announced purpose is "to put to rest assertions that the Treasury Department lacks authority to prescribe" the ADR System regulations.

I. STATUTORY AUTHORITY TO ISSUE THE REGULATIONS

The Covington & Burling memorandum, though extended, makes no mention of Sections 446, 451, and 461, which were cited by former Secretary Kennedy in his statement of Jan. 11, 1971 as sources of the Treasury's authority to issue the ADR regulations. (This omission seems to be an implicit acquiescence in the view, expressed in my prior memorandum, that these provisions offer no support for the Treasury's action.) Instead of endorsing the Treasury's theory that it is authorized to act by Sections 446, 451, and 461, the Covington & Burling memorandum falls back on the catch-all language of § 7805, and also offers the Treasury two other statutory sources of authority, viz., § 167(b) and § 167(d).

As to § 167(b), it is concerned exclusively with *depreciation* methods, conferring no authority whatsoever over the determination of an asset's useful life. The term "useful life" is mentioned in § 167(b) only once, as a *limitation* on the Treasury's power to prescribe depreciation methods. In this connection, the Covington & Burling memorandum quotes (pp. 18–19) from a 1954 committee report of the House Ways and Means Committee, but omits the following introductory explanation:

"Depreciation allowances are the method by which the capital invested in an asset is recovered tax-free *over the years it is used in a business.* The annual deduction is computed by spreading the cost of the property *over the estimated useful life.* (Emphasis added.)

The same House committee recommended changes in the law in 1954 governing both depreciation methods and useful lives. *The latter recommendation (a 10% "tolerance" in estimating an asset's useful life) was rejected by the State Finance Committee,* which said that it "might be a substantial source of misunderstanding and distortion" and that the Internal Revenue Service had already announced policies to avoid "annoying minor changes which would disturb the original estimate of service life." It strains the language and history of § 167(b) to convert it into a source of Treasury authority to prescribe artificial service lives for assets.

As to § 167(d), which the Covington & Burling memorandum describes (p. 21) as "explicit statutory authority for the ADR System," its relevance is even more remote.* Section 167(d) was enacted in 1954 to permit the Service and a taxpayer to enter "into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property," and it confers a certain degree of finality on such agreements. The Covington & Burling memorandum seeks to enlarge this useful but modest administrative tool, designed to permit good faith judgments in specific cases to prevail over the hindsight of an over-zealous revenue agent, into a foundation for the ADR regulations. The theory is that a taxpayer's election to employ the ADR System constitutes a § 167(b) "agreement." With equal plausibility, the Treasury could use its statutory authority to enter into closing agreements and compromises (§§ 7121–2) as a foundation for a tax cut. Thus, using its ADR regulations as a model, the Treasury could announce that any taxpayer who thought that his taxes were too high and who wanted a 10% tax cut need only say so on his tax return, which act would constitute a "closing agreement" or "compromise" when the tax return was received and accepted by the Internal Revenue Service. To the assertion of such sour critics as myself that this would generate an unauthorized loss of revenue, the Treasury could respond—as it has with the ADR regulations—that the resulting stimulus to the economy would soon recoup the loss.

Aside from § 167(b) and § 167(d), the Covington & Burling memorandum relies on § 7805 as an independent source of Treasury authority to issue the ADR regulations. One wonders if the implications of this theory have been thought through. Although the ADR System is optional with the taxpayer, nothing in § 7805 requires the Treasury to offer the taxpayer a free choice. If § 7805 *does* authorize the Treasury to define the term "useful life," the taxpayer could be *required* to use:

Lives 20% (or 100%, for that matter) longer than the 1962 guidelines;

Lives based on physical durability alone;

Lives equal to the longest experience of any taxpayer in a relevant industrial group;

etc., etc.

COVINGTON & BURLING MEMORANDUM

"Professor Bittker wholly overlooks Section 167(d) which authorizes agreements between the Revenue Service and a particular taxpayer on useful lives and depreciation rates." (p. 20)

"Professor Bittker . . . neglect(s) to mention the Treasury Department's statement that: 'It is anticipated, however, that the increase in employment and business activity will provide substantial additional feedback revenues to offset these reductions.'" (p. 40)

BITTKER MEMORANDUM

"Indeed, in the area of depreciation Congress has explicitly provided a procedure for reducing disputes over useful lives, viz., 167(d) (relating to agreements on useful lives), thus supplying further support for the principle that unilateral concessions by the IRS are not legally permissible." (p. 25)

"The Treasury, to be sure, predicts that increased business activity and employment 'will provide substantial additional feedback revenues to offset these reductions.'" (p. 5)

Similarly, if § 7805 is a firm foundation for the "repair allowance" of the ADR regulations, the Treasury by a parity of reasoning could use § 7805 to *require* repairs to be capitalized if they exceed a specified percentage of the asset's cost or basis.

Before taxpayers and their counsel encourage the Treasury to employ § 7805 so freely, they ought to pause to get their bearings. In point of fact, of course, this warning is not necessary. If the Treasury used § 7805 to decrease depreciation deductions by redefining the term "useful life," Washington counsel would bury the Treasury with briefs on "administrative absolutism." The attempt to use § 7805 as support for the ADR regulations is only an ad hoc, one-way trip to nowhere.

Finally, a word about the possibility (Covington & Burling memorandum, p. 30) that

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[3] The reserve ratio test was to be the corrective for this practice but, as noted above, it is to be terminated as part of the ADR "reforms."

[4] Indeed, in the area of depreciation Congress has explicitly provided a procedure for reducing disputes over useful lives, viz., § 167(d) (relating to agreements on useful lives), thus supplying further support for the principle that unilateral concessions by the IRS are not legally permissible. Another example is Section 167(f), authorizing minor amounts of salvage value to be disregarded—a statutory rule that would not be necessary if the Treasury could, as an adjunct to its audit responsibility, announce its intention to disregard items of minor consequence.

*For the record, I should like to correct two misreadings of my memorandum by the Covington & Burling memorandum, one concerned with § 167(d), which I applied without further comment.

the Treasury consulted "with the appropriate Congressional committees" before issuing the ADR regulations. Such consultations, of which I have also heard rumors, are obviously sensible precautions for an administrator who is treading on thin ice, and there is no reason why Congressmen should not express their opinions on the legal status and economic wisdom of the ADR, or any other, regulations. Nothing in such consultations, however, can confer statutory authority on the Treasury; that requires an act of Congress, passed by both Houses and approved by the President. An informal "clearance" is a political safeguard, not an authoritative interpretation of the law.

II. "ADMINISTRATIVE PRECEDENTS"

The Covington & Burling memorandum asserts that three so-called "administrative precedents" constitute support for the ADR regulations. None of them can support this weight.

1. In 1934, the Treasury departed from its prior complaisant administration of the depreciation provisions, by taking the action described in Secretary Morgenthau's letter to the Chairman of the House Ways and Means Committee (quoted in the Covington & Burling memorandum, pp. 22–23). The Treasury abandoned its practice of accepting taxpayer's claims unless they were clearly unreasonable, according to a portion of the letter that Covington & Burling neglected to quote, because:

If past methods are continued, the amount representing the basis of the assets will be completely recovered through depreciation deductions *before the actual useful life of the assets has terminated.* (Emphasis added.)

The 1934 changes were designed, according to Secretary Morgenthau's letter, "to overcome this condition" by limiting depreciation deductions "to such amounts as may reasonably be considered necessary to recover *during the remaining useful life of any depreciable asset* the unrecovered basis of the asset." (Emphasis added.) When the House Ways and Means Committee acquiesced in this administrative proposal in 1934, its action was indeed "of particular significance," as the Covington & Burling memorandum says—but for a very different reason. The 1934 action of the Treasury, and the attendant acquiescence of the House Ways and Means Committee, acknowledged that the proper period for computing depreciation is the useful life of the asset. If this episode has any bearing on the ADR regulations, it is unfavorable.

2. In 1953, the Treasury decided to allow depreciation claims to stand in the absence of a clear and convincing reason for changing them. I pointed out in my prior memorandum (pp. 21–22) that the Treasury has the authority to allocate its limited enforcement resources in a reasonable fashion; the 1953 instructions to revenue agents—for that is all that the ruling amounted to—can be regarded as such an instance of the internal management of audit resources. Unlike the ADR regulations, the 1953 ruling did not confer immunity on artificial useful lives, permit capital expenditures to be deducted, or draw lines between one type of asset and another, or between one type of taxpayer and another. To compare the 1953 rulings to the ADR regulations is to compare apples and computers.

3. In 1962, the Treasury issued new guide lines for depreciation. This "administrative precedent" offers no more support for the ADR regulations than the Treasury's actions in 1934 and 1953. The basic objective of the 1962 guidelines (see Covington & Burling memorandum, pp. 28–29) was "to provide realistic tax lives in the light of past actual practices and present and foreseeable technological innovations and other factors affecting obsolescence." The 1962 guidelines, buttressed by the reserve ratio test, were concerned with *realistic but actual useful lives;* they are in no sense an "administrative precedent" for a cost recovery system.

III. THE MASSEY MOTORS CASE

The Covington & Burling memorandum discusses Massey Motors, Inc. v. United States, 364 U.S. 92 (1960), seemingly to suggest that it would permit the term "useful life" to be reinterpreted by the Treasury if it saw fit to do so. This reading of Massey Motors cannot be maintained in the teeth of the final paragraph of the opinion:

We therefore conclude that *the Congress intended* that the taxpayer should, under the allowance for depreciation, recover only the cost of the asset less the estimated salvage, resale or second-hand value. This *requires* that the useful life of the asset be related to the period for which it may reasonably be expected to be employed in the taxpayer's business. (Emphasis added.)

Although the years before the Court were 1950 and 1951, the Court itself noted the action of Congress in adopting the 1954 Code, quoting the House Report thereon to the effect that:

Depreciation allowances are the method by which the capital invested in an asset is recovered tax-free *over the years it is used in a business.* The annual deduction is computed by spreading the cost *over its estimated useful life.* (Emphasis added.)

In short, Massey Motors is utterly inconsistent with the theory that the Treasury can define and redefine "useful life" under section 7805 so as to cut the connection between depreciation and the expected service life of an asset in the taxpayer's business.

Because I have subjected the Covington & Burling memorandum to severe criticism, I should perhaps add that the reason such a distinguished law firm cannot make a good case for the ADR regulations is that there is none to be made.

BIOGRAPHICAL NOTE

Boris I. Bittker is Sterling Professor of Law at Yale University.

Professor Bittker received his B.A. from Cornell in 1938 and his LL.B. from Yale Law School in 1941. He is a member of the New York and Connecticut bars.

Professor Bittker is the author of several well-known treatises on tax law, including *Federal Income Taxation of Corporations and Shareholders* (2nd edition, with James S. Eustice) (1966); *Federal Income Estate and Gift Taxation* (3rd edition) (1964); and *Professional Responsibility in Federal Tax Practice* (1970); as well as a number of other books and articles on federal taxation.

BIBLIOGRAPHICAL NOTE

Professor Bittker's initial statement on the proposed Asset Depreciation Range System was distributed by Taxation with Representation on April 5, 1971. Additional copies are available upon request.

The Covington & Burling memorandum responding to Professor Bittker's initial statement was distributed on April 12, 1971. That statement was prepared at the request of the National Machine Tool Builders' Association and the American Machine Tool Distributors' Association. Requests for copies of that memorandum should be directed to Covington & Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006 or to either of the Tool Associations. Their addresses are: National Machine Tool Builders Association, 2139 Wisconsin Avenue, N.W., Washington, D.C. 20007 and American Machine Tool Distributors Association, 1500 Massachusetts Avenue, N.W., Washington, D.C. 20005.

The attached statement is Professor Bittker's response to the Covington & Burling memorandum. Additional copies of this statement can be obtained by writing to Taxation with Representation.

OPEN DATING: A FRESH IDEA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 20 minutes.

Mr. ROSENTHAL. Mr. Speaker, today I am introducing, for myself, for Mr. ECKHARDT and for 51 other Members, legislation designed to protect consumers against the economic waste and possible health hazards of purchasing spoiled or stale food products.

Known as the "open-dating bill," it would require that the myriad undecipherable codes now on packaged foods be replaced by "pull" dates clearly understandable to the public. The bill covers all packaged perishable and semiperishable food, and it goes far beyond any legislation introduced in the past.

There is growing evidence throughout the country that a significant number of food products offered for sale to the American consumer are overage and may be unwholesome. Accounts of consumer purchases of spoiled meat products, overage dairy products and stale bakery items are appearing with increasing frequency.

Most packaged perishable or semiperishable food is code dated by the food processor now. But the hundreds of different codes—too often hybrids of letters and numbers—are almost always undecipherable to consumers and frequently to food store employees, as well.

I believe a new mechanism is needed to give consumers personal policing powers over the sale of packaged perishable and semiperishable foods. Code books, now available in a few progressive supermarkets for the purpose of deciphering codes, are inadequate.

Two major retail grocery chains are using open dating on a limited basis. One, Giant Foods, Inc., of the Washington, D.C., area, reports great success and enthusiastic acceptance not only by its customers but by its own personnel and store managers as well.

The other is the Chicago-based Jewel Food Stores. At my request, the U.S. Department of Agriculture's Economic Research Service is conducting a survey of response by store managers and consumers to open-dating. Although data is still being compiled, early indications are that the freshness dates on certain categories of products, such as dairy items and baked goods, are of great concern to Jewel's customers.

The American Meat Institute, the trade association for the major meat processors, announced recently that its members will begin stamping a simplified four-digit code date on its packages. Unfortunately, there are two flaws in this plan:

Many products will not be included, such as private label meats like those packed under chain store labels, canned meats, fresh pork sausage, bulk sausage, and bone-in ham; and

The meaning of the date will vary from manufacturer to manufacturer, so the consumer will not really be able to tell if the date on the product signifies when it was packaged or when it should be removed from sale.

This appears to me to be an experiment doomed from the start—I would hope, not intentionally. But that is a problem with many so-called consumer experiments by business. Even well-intentioned industry experimentation with consumer programs, if not carefully done, can lead one to the incorrect conclusion that consumers do not care about and do not want that program.

The bill being introduced today sets national standards for freshness. It would go beyond requiring the clearly stated "pull date"—the last day the product should be offered for sale to the public—by demanding that the package label clearly show the optimum temperature and humidity conditions under which the product should be stored in the consumer's home.

Perishable food, in terms of this bill, is any packaged food with a high risk of any of the following: spoilage, significant loss of nutritional value, significant loss of palatability.

The pull date of perishable and semi-perishable foods would be placed on the shipping containers, in addition to the individual consumer packages, to improve the turnover and rotation of goods through the distribution process.

Too often retail store managers and their employees are helpless when it comes to proper rotation of packaged, perishable foods because the codes are kept secret from them, too. The supplier's route salesman is often the only one who can read the freshness codes and determine when a product should be pulled, something he may be reluctant to do if it could diminish his sales commissions.

This bill would permit the sale of perishable food whose pull date has expired only if it is wholesome, is separated from other food and is clearly identified as having passed the pull date.

I am well aware that this bill is no panacea for all the problems contributing to a lack of freshness and wholesomeness in food, but I am definitely convinced it would provide consumers with a workable and important mechanism to eliminate much unfit food from the shelves of grocery stores.

The text of the bill, with a section-by-section analysis and list of cosponsors, follows:

COSPONSORS OF THE ROSENTHAL-ECKHARDT "OPEN-DATING" BILL

James Abourezk, of South Dakota.
Joseph P. Addabbo, of New York.
Herman Badillo, of New York.
Nick Begich, of Alaska.
Jonathan B. Bingham, of New York.
Edward P. Boland, of Massachusetts.
John Brademas, of Indiana.
Frank J. Brasco, of New York.
James A. Burke, of Massachusetts.
Shirley Chisholm, of New York.
George W. Collins, of Illinois.
James C. Corman, of California.
George E. Danielson, of California.
John D. Dingell, of Michigan.
Harold D. Donohue, of Massachusetts.
Robert F. Drinan, of Massachusetts.
Thaddeus Dulski, of New York.
Don Edwards, of California.
Joshua Eilberg, of Pennsylvania.
Dante Fascell, of Florida.
Donald M. Fraser, of Minnesota.
Cornelius E. Gallagher, of New Jersey.
Ella T. Grasso, of Connecticut.
Michael Harrington, of Massachusetts.
William D. Hathaway, of Maine.
Augustus F. Hawkins, of California.
Ken Hechler, of West Virginia.
Henry Helstoski, of New Jersey.
William L. Hungate, of Missouri.
Louise Day Hicks, of Massachusetts.
Frank Horton, of New York.
Edward I. Koch, of New York.
Spark Matsunaga, of Hawaii.
Romano L. Mazzoli, of Kentucky.
Abner J. Mikva, of Illinois.
Patsy T. Mink, of Hawaii.
Parren J. Mitchell, of Maryland.
F. Bradford Morse, of Massachusetts.
John E. Moss, of California.
John Murphy, of New York.
Charles B. Rangel, of New York.
Ogden Reid, of New York.
William R. Roy, of Kansas.
William F. Ryan, of New York.
Paul S. Sarbanes, of Maryland.
James H. Scheuer, of New York.
Fred Schwengel, of Iowa.
Robert O. Tiernan, of Rhode Island.
Charles A. Vanik, of Ohio.
Charles H. Wilson, of California.
Sidney R. Yates, of Illinois.

SECTION-BY-SECTION ANALYSIS OF MAJOR PROVISIONS

A bill to amend the Fair Packaging and Labeling Act to require certain labeling to assist the consumer in purchases of packaged perishable or semi-perishable foods.

SEC. 201. For purposes of this title:

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "food" has the meaning prescribed for that term by section 201 of the Federal Food, Drug, and Cosmetic Act, except that such term does not include any fresh fruit or vegetable.

(3) The term "perishable or semi-perishable food" means any food which the Secretary determines has a high risk of any of the following as it ages:

(A) Spoilage;

(B) Significant loss of nutritional value; or

(C) Significant loss of palatability.

(4) The term "pull date" means the last date on which a perishable or semi-perishable food can be sold for consumption without a high risk of spoilage or significant loss of nutritional value or palatability, if stored by the consumer after that date for the period which a consumer can reasonably be expected to store that food.

SEC. 202. (a) No manufacturer of a perishable or semi-perishable food for ultimate sale to consumers, may distribute his product for such sale unless the package is prominently labeled to show (1) the pull date for such food and (2) the optimum temperature and humidity conditions for its storage by the ultimate consumer.

(b) No retail distributors of such packaged perishable and semi-perishable food may sell such food unless the package is labeled pursuant to (a) above.

(c) Retail distributors of such packaged perishable and semi-perishable foods may sell such foods whose pull date has expired, but only if (1) the food is fit for human consumption, as determined under applicable Federal, State, or local law, and (2) the food is physically segregated from like food whose pull date has not expired, and (3) the food is clearly identified as having passed the pull date.

(d) The shipping or outside wrappers and cartons of perishable and semi-perishable food must be marked with the pull dates of those foods in order to facilitate stock rotation.

(f) (1) The pull date and optimum storage conditions shall be prescribed by regulations of the Secretary of HEW.

(2) The pull date shall be expressed in the commonly used letter abbreviations for months of the year and such combinations of numbers describing years, as will permit ready identification of the day, month, or year comprising the pull date, without reference to special decoding information.

(3) The pull date determination shall be made after consultation with and submission of data by food manufacturers, SEC. 203. Any person who violates this Title shall be imprisoned for not more than one year or fined not more than $5,000 or both. Violation of this Title after a previous conviction or with intent to defraud or mislead, is punishable by imprisonment for not more than three years or a fine of not more than $25,000 or both.

FAIR PACKAGING AND LABELING ACT

A bill to amend the Fair Packaging and Labeling Act to require certain labeling to assist the consumer in purchases of packaged perishable or semi-perishable foods:

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

LABELING REQUIREMENTS FOR PERISHABLE AND SEMI-PERISHABLE FOODS

SECTION 1. The Fair Packaging and Labeling Act (15 U.S.C. 1451–1461) is amended by adding at the end thereof the following new title:

"TITLE II

"DEFINITIONS

"SEC. 201. For purposes of this title:

"(1) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(2) The term 'food' has the meaning prescribed for that term by section 201 of the Federal Food, Drug, and Cosmetic Act, except that such term does not include any fresh fruit or vegetable.

"(3) The term 'perishable or semi-perishable food' means any food which the Secretary determines has a high risk of any of the following as it ages:

"(A) Spoilage;

"(B) Significant loss of nutritional value; or

"(C) Significant loss of palatability.

"(4) The term 'pull date' means the last date on which a perishable or semi-perishable food can be sold for consumption without a high risk of spoilage or significant loss of nutritional value or palatability, if stored by the consumer after that date for the period which a consumer can reasonably be expected to store that food.

"(5) The term 'label' means any written, printed, or graphic matter affixed to or appearing upon any container or wrapping in which a perishable or semi-perishable food is enclosed.

"(6) The terms 'package' and 'principal display panel' have the meanings prescribed for those terms by sections 110(b) and 110 (f), respectively, of title I of this Act.

"LABELING REQUIREMENTS FOR PERISHABLE AND SEMI-PERISHABLE FOODS

"SEC. 202. (a) No person who manufactures a perishable or semi-perishable food in the form in which it is sold by retail distributors to consumers may distribute (or cause to be distributed) for purposes of sale a perishable or semi-perishable food packaged by him in such form unless he has, in accordance with the requirements of subsection (f), labeled such packages to show (1) the pull date for such food, and (2) the optimum temperature and humidity conditions for its storage by the ultimate consumer.

"(b) No person engaged in business as a retail distributor of any packaged perishable or semi-perishable food may sell, offer to sell, or display for sale such food unless the food's package is labeled in accordance with subsection (a).

"(c) No person engaged in business as a

retail distributor of any packaged perishable or semi-perishable food may sell, offer to sell, or display for sale any such food whose pull date, as specified on its package's label, has expired unless—

"(1) the food is fit for human consumption, as determined under applicable Federal, State, or local law,

"(2) such person separates the food from other packaged perishable or semi-perishable foods whose pull dates, as specified on their packages' labels, have not expired, and

"(3) such person clearly identifies the food as a food whose pull date has expired.

"(d) No person engaged in the business of manufacturing, processing, packing, or distributing perishable or semi-perishable foods, may place packages of such foods, labeled in accordance with subsection (a), in shipping containers or wrappings unless such containers or wrappings are labeled by him, in accordance with regulations of the Secretary, to show the pull date (or dates) on the labels of such packages.

"(e) No person may change, alter, or remove before the sale of a packaged perishable or semi-perishable food to the ultimate consumer any pull date required by this section to be placed on the label of such food's package or shipping container or wrapping.

"(f)(1) The pull date and the storage instructions required to be on the label of a packaged perishable or semi-perishable food under subsection (a) shall be determined in the manner prescribed by regulations of the Secretary.

"(2) A pull date shall, in accordance with regulations of the Secretary,—

"(A) be (i) in the case of the month contained in the pull date, expressed in the commonly used letter abbreviations for such month, and (ii) otherwise expressed in such combinations of letters and numbers as will enable the consumer to readily identify (without reference to special decoding information) the day, month, or year, as the case may be, comprising the pull date; and

"(B) be separately and conspicuously stated in a uniform location upon the principal display panel of the label required under subsection (a).

"(3) (A) Any regulation under paragraph (1) prescribing the manner in which pull dates for a packaged perishable or semi-perishable food shall be determined may include provisions—

"(i) prescribing the time periods to be used in determining the pull dates for such food,

"(ii) prescribing the data concerning such food (and the conditions affecting it before and after its sale to the consumer) to be used in determining its pull dates, or

"(iii) permitting a person engaged in the business of manufacturing, processing, packaging, or distributing such food to determine its pull dates using such time periods and data as such person considers appropriate.

"(B) If such regulation includes provisions described in subparagraph (A)(iii) of this paragraph, such regulation shall also contain—

"(i) such provisions as may be necessary to provide uniformity, where appropriate, in the time periods used in pull date determinations; and

"(ii) provisions for regular review by the Secretary of the pull date determination and the time periods and data upon which they are based.

"PENALTIES AND INJUNCTIONS

"SEC. 203. (a) Any person who violates any provision of section 202, or any regulation made thereunder, shall be imprisoned for not more than one year or fined not more than $5,000, or both; except that if any person commits such a violation after a conviction of him under this subsection has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $25,000, or both.

"(b) Any packaged perishable or semi-perishable food that is distributed in violation of section 202 or any regulation made thereunder shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States within the jurisdiction of which such packaged food is found. Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) (relating to seizures) shall apply with respect to proceedings brought under this subsection and to the disposition of packaged foods subject to such proceedings.

"(c)(1) The United States district courts shall have jurisdiction, for cause shown, to restrain violations of section 202 and regulations made thereunder.

"(2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of section 202 or a regulation made thereunder, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(d) In the case of any imports into the United States of any packaged perishable or semi-perishable food covered by this title, the provisions of section 202 and regulations made thereunder shall be enforced by the Secretary of the Treasury pursuant to section 801(a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

"(e) Before any violation of section 202 or a regulation made thereunder is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

"(f) Nothing in this title shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of section 202 or a regulation made thereunder wherever he believes that the public interest will be adequately served by a suitable written notice or warning.

"(g)(1) Actions under subsection (a) or (c) of this section may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitat or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(2) In any actions brought under subsection (a) or (c) of this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"REGULATIONS

"SEC. 204. The Secretary shall make regulations pursuant to this title in accordance with the procedures prescribed by section 553 of title 5 of the United States Code (other than clause (B) of the last sentence of subsection (b) of such section).

"REPORTS TO CONGRESS

"SEC. 205. The Secretary shall transmit to the Congress in January of each year a report containing a full and complete description of his activities for the administration and enforcement of this title in the preceding fiscal year.

"COOPERATION WITH STATE AUTHORITIES

"SEC. 206. (a) The Secretary shall (1) transmit copies of each regulation made under this title to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of packaged perishable or semi-perishable foods.

"(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

"EFFECT UPON STATE OR LOCAL LAW

"SEC. 207. If any labeling requirement for pull dates or storage conditions is in effect under this title with respect to any packaged perishable or semi-perishable food, no State or political subdivision of a State may establish or continue in effect, with respect to such packaged food, any law prescribing any such labeling requirement which is not identical to the labeling requirement in effect under this title; except that this section shall not be construed to (1) abate any prosecution or other action for the enforcement of such a law of a State or political subdivision of a State begun before the date this title takes effect, or (2) release or extinguish any penalty, forfeiture, or liability incurred under such law."

TECHNICAL AMENDMENTS

SEC. 2. (a) Whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Packaging and Labeling Act.

(b) The second sentence of section 2 is amended by inserting "and quality" after "quantity".

(c) Sections 3, 4, 5, 6, 7, 8, 9, 10, and 12 are each amended by striking out "this Act" each place it occurs and inserting in lieu thereof "this title"; and section 13 is amended by striking out "This Act" and inserting in lieu thereof "This title".

(d) The following is inserted between section 2 and section 3:

"TITLE I"

(e)(1) Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 are redesignated as sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111, respectively.

(2)(A) Sections 102(a), 102(b), and 105(a) (as so redesignated) are each amended by striking out "section 3" and inserting in lieu thereof "section 101".

(B) Sections 103(b), 103(c), 104(a), 104(b), and 110 (as so redesignated) are amended by striking out "section 4" and inserting in lieu thereof "section 102"; and section 105(c) (as so redesignated) is amended by striking out "sections 4" and inserting in lieu thereof "sections 102".

(C) Sections 104(a), 104(b), and 106 (as so redesignated) are each amended by striking out "section 5" and inserting in lieu thereof "section 103"; and section 105(c) (as so redesignated) is amended by striking out "and 5" and inserting in lieu thereof "and 103".

(D) Section 102(a) (as so redesignated) is amended by striking out "section 6" and inserting in lieu thereof "section 104".

EFFECTIVE DATE

SEC. 3. The amendments made by sections 1 and 2 of this Act shall take effect on the first day of the seventh calendar month beginning after the date of its enactment.

PROPOSED FOOD STAMP REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Iowa. Mr. Speaker, on

behalf of the gentleman from Washington (Mr. FOLEY), who is in Japan on official business, I am happy to report that eighty-two Members of Congress, from both sides of the aisle, have signed a letter authored by Mr. Foley asking the USDA to change the proposed food stamp regulations so that 350,000 persons who are presently eligible for benefits will not be eliminated from the program. The letter also requests that the purchase schedules be revised so that 1.75 million people will not have to pay more for their stamps than they paid before passage of the Food Stamp Act, Public Law 91–671, late last year.

I would like to thank the Members of Congress who signed this letter, as well as the many other Members who sent individual letters and wires expressing their reservations about these and other features of the proposed regulations. It is hoped that as a result of this congressional comment, the USDA will refine and perfect their regulations in a humane manner and in accordance with the intention of Congress.

At this time I would like to place into the RECORD a copy of our letter, addressed to Mr. James Springfield, Director of the Food Stamp Division, USDA, and a list of Members who joined me on this letter.

Mr. JAMES B. SPRINGFIELD,
Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SPRINGFIELD: The undersigned vigorously oppose the Department's proposed regulations implementing Public Law 91–671. These regulations would, by your own admission, remove 350,000 needy aged, blind, and disabled individuals and couples from the food stamp rolls and substantially reduce the bonus stamps benefits going to over 1,750,000 needy persons in families.

That was not the proclaimed intent of the Administration in introducing the bill that eventually became Public Law 91–671. The President offered the revisions of the present food stamp program as improvements designed to increase the reach of food assistance from 7 million needy Americans to 16 million. The Secretary of Agriculture testified before the House Agriculture Committee that he was proposing major improvements in the program expanding, not contracting eligibility. Neither of them said anything about cutting recipients off from food aid.

That was not the proclaimed intent of the Congress. The Chairman of the House Agriculture Committee informed us in the floor debate that the provisions of the committee bill relating to purchase price and uniform national eligibilty standards "are clearly intended to and do liberalize the existing law." When the Conference Report on the bill was brought before the House, he warned us that it was essential to accept the report in order "to assure the continuation of this assistance to millions of deserving people." He did not say that passage of the bill was necessary to take stamp benefits away from present recipients.

We believe that the regulations must be changed if the intention of Congress is to be enforced. We therefore strongly recommend that the following revisions be made in the regulations:

(1) The eligibility standards should be changed to guarantee the continued eligibility of all persons who were getting food stamps before the enactment of Public Law 91–671 and of all others in similar economic circumstances.

(2) The issuance schedules should be changed to revise purchase prices so that no household has to pay more for food stamps than it had to before the enactment of Public Law 91–671. This would insure that a recipient's present benefits would not be reduced.

We certainly hope that you will consider these suggestions and revise the final regulations accordingly in order to meet our common objective of not increasing the ranks of the hungry and malnourished.

MEMBERS OF CONGRESS WHO SIGNED LETTER TO JAMES SPRINGFIELD, DIRECTOR, FOOD STAMP DIVISION, USDA

Thomas S. Foley.
James S. Abourezk.
Bella S. Abzug.
Brock Adams.
Glenn M. Anderson.
Frank Annunzio.
Herman Badillo.
William A. Barrett.
Bob Bergland.
Jonathan B. Bingham.
Edward P. Boland.
John Brademas.
James A. Burke.
Phillip Burton.
James A. Byrne.
Hugh L. Carey.
Shirley Chisholm.
William Clay.
Silvio O. Conte.
John Conyers, Jr.
James C. Corman.
William R. Cotter.
John C. Culver.
John G. Dow.
Robert Drinan.
Thaddeus Dulski.
Bob Eckhardt.
Don Edwards.
Joshua Eilberg.
Walter E. Fauntroy.
William D. Ford.
Donald M. Fraser.
Cornelius E. Gallagher.
Edward A. Garmatz.
Ella T. Grasso.
William J. Green.
Gilbert Gude.
Seymour Halpern.
Lee H. Hamilton.
Julia Butler Hansen.
Michael Harrington.
William D. Hathaway.
Augustus F. Hawkins.
Henry Helstoski.
Floyd V. Hicks.
James J. Howard.
Andrew Jacobs, Jr.
Robert W. Kastenmeier.
Edward I. Koch.
Arthur A. Link.
Paul N. McCloskey.
Mike McCormack.
Lloyd Meeds.
John Melcher.
Ralph Metcalfe.
Abner J. Mikva.
Parren J. Mitchell.
William S. Moorhead.
F. Bradford Morse.
Lucien N. Nedzi.
David R. Obey.
James G. O'Hara.
Thomas P. O'Neill, Jr.
Claude Pepper.
Bertram Podell.
Charles B. Rangel.
Thomas M. Rees.
Ogden R. Reid.
Donald W. Riegle, Jr.
Peter W. Rodino, Jr.
Benjamin S. Rosenthal.
Edward R. Roybal.
William F. Ryan.
Fernand J. St Germain.
James H. Scheuer.
John F. Seiberling.
Neal Smith.
Robert T. Stafford.
James W. Symington.
Frank Thompson, Jr.
Morris K. Udall.
Lionel Van Deerlin.

HAGAN DRUG REPORT

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MONAGAN. Mr. Speaker, the recently released drug report of the Hagan subcommittee of the Committee on Armed Services is one of the most important documents to be presented to the Congress in a long time. The drug abuse situation which it depicts is shocking and critical.

At least 60 percent and undoubtedly many more of the men in Vietnam habitually use marihuana and up to 10 percent of our personnel there use hard drugs.

The committee found that the heroin problem in Vietnam is increasing in seriousness because abundant supplies of the drug are reaching the area from new processing laboratories in Laos and that there are such processing laboratories in Thailand and Hong Kong.

The testimony of interested officers of the various services indicates that investigations of drug cases have doubled each year for the last 3 years. Eighty-nine soldiers died in Vietnam probably from overdoses of drugs during the first 10 months of 1970. The Army's 25th Division study shows that roughly 10 percent of the men tested presently use hard drugs.

Chairman HAGAN and his committee members should be congratulated for their hard work and for placing in the record these important facts. At the same time, it does seem to me that the Defense Department and the individual services and government as a whole have not fully comprehended the seriousness of the problem nor its explosive quality. The attitudes of the services range from frank and complete disinvolvement as on the part of the Marine Corps, to some halting movement toward rehabilitation on the part of the Army. But the figures clearly show that this neglect or resort to half measures are not sufficient. This drug involvement has become a major national problem and it requires a broad national solution.

I suggest that the logical solution from a national point of view is to impose upon the services the responsibility for identifying and treating these addicts while still in the service. To discover them and give them dishonorable discharges may solve the service problem as with the Marine Corps, but it does not solve the individual problem nor does it solve the national problem. The Marine Corps have rightly said that they do not possess the facilities or resources to assume a rehabilitation function and, therefore, I suggest that the logical step for the Nation is to provide these facil-

ities and resources in each of the three services. In my bill, H.R. 8216, I have set up a drug control corps in each of the armed services which would concentrate on drug problems and would rehabilitate addicts prior to discharge rather than thereafter. The current madness of throwing addicts upon society with dishonorable discharges which prevent them from being treated in VA hospitals is thus halted.

The tragically important information in the hearings and report of the Hagan subcommittee must not be suppressed. Ten percent of our men in Vietnam would amount to some 25,000 users of hard drugs. With the personal experiences which I have had in the tragedies of youths who have acquired this habit in the service and then been discharged without treatment or hope of cure have convinced me that prompt and immediate action on a national scale is necessary.

Congress has the right to determine what the role of the services should be and it is clear to me that their policy of neglect, or relative neglect, must be reversed and a broad program of rehabilitation must be initiated.

I hope that my bill, H.R. 8216, will receive prompt and favorable action from the Armed Services Committee, but whether or not this particular bill passes, the scope and tragic urgency of the drug problem in the armed services must be immediately recognized and promptly and competently dealt with.

POSSIBILITY THAT MOTION MAY BE MADE TO DISCHARGE COMMITTEE ON GOVERNMENT OPERATIONS FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 411

(Mr. HOLIFIELD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HOLIFIELD. Mr. Speaker. I feel called upon to make a few remarks to the House concerning the statement made by the majority leader on Thursday concerning the possibility that a motion may be made to discharge the Committee on Government Operations of its consideration of House Resolution 411. This resolution was filed to disapprove Reorganization Plan No. 1 of 1971 submitted by the President on March 24 to consolidate various voluntary action programs and create a new agency called Action.

Under the Reorganization Act of 1949, the House or the Senate may prevent a reorganization plan from becoming law by passing a disapproval resolution within 60 days after the plan has been submitted, barring periods of adjournment over 3 days. Reorganization plans and disapproval resolutions that may be filed are referred, under the rules of the House, to the Committee on Government Operations for consideration. The rules provide that our committee must report a disapproval resolution back to the House after 10 days or be subject to a motion to discharge. Such a motion is highly privileged and may be passed by a simple majority vote.

I have been a member of this committee for over 25 years and have personally handled many reorganization plans. It has been a rare occasion indeed during all of that period when any Member has attempted to discharge the committee.

As the procedure in handling reorganization plans is somewhat the reverse of the usual legislative process and was enacted to help expedite needed governmental reorganizations, the rule on discharge was adopted to assure the protection of the rights of individual Members who may be opposed to a plan and to prevent dilatory action on the part of the committee in the handling of disapproval resolutions.

I do not believe that any Member has cause to accuse the committee of ever attempting to disregard the rights of Members in our method of handling these plans. The only other question could be whether or not the committee has been dilatory in handling the pending resolution. Let us review the record.

The President's message on Reorganization Plan No. 1 was submitted to the Congress on March 24. It involved the transfers of a number of functions and offices and the administration of statutes reported by other committees of jurisdiction. I immediately directed my staff to make a study and analysis of the plan and its effects.

On March 30, I announced to the press that hearings would be held by the Subcommittee on Legislation and Military Operations on April 29. It was not practicable to schedule them before that date due to the Easter recess from April 7 to April 19.

On April 6, I sent letters to Chairmen CARL PERKINS of the Committee on Education and Labor, WRIGHT PATMAN of the Committee on Banking and Currency, and JOE EVINS of the Select Committee on Small Business asking each of them for their comments on the plan inasmuch as it affected legislation under the jurisdiction of their committees. I received replies from Chairman EVINS dated April 20 and from Chairman PATMAN also dated April 20. Chairman PERKINS responded through his appearance at our hearings.

The disapproval resolution (H. Res. 411) was filed on April 28, the day before our hearings began. We concluded the three days of hearings on May 4 and immediately began the process of preparing the transcripts for printing.

On the afternoon of May 4 the subcommittee met in executive session to consider the disapproval resolution and agreed to submit it to the full committee with a recommendation that it not be approved. The subcommittee, therefore, endorsed the plan.

The 10 days under the rule expired on Saturday, May 8, and the first day a discharge motion could be made was Monday, May 10. Our regular monthly meeting was to be held on Wednesday, May 12, and I set the resolution down for action at that time. Pursuant to a telephone conversation I had with the gentleman from New Jersey (Mr. THOMPSON), however, I postponed the regular meeting and later called a special meeting for Tuesday, May 18. We expect to report the resolution at that time and call it up on the floor the week of the 24th, well before the expiration of the 60-day period which ends on June 3.

Whatever a Member's feelings may be about the merit of this plan, there is no justification whatever in moving to discharge this committee on the grounds that it has been dilatory.

The committee has acted responsibly under the provisions of the Reorganization Act, protecting the committee's responsibility under its charter of duties. It has protected the rights of every Member of the House for their right of consideration and their right to vote for or against the President's Reorganization Plan No. 1 of the 92d Congress.

EXPORT-IMPORT BANK OF THE UNITED STATES

(Mr. ANNUNZIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, the House Banking and Currency Committee, on which I serve, opens hearings tomorrow on legislation to extend the provisions of the Export-Import Bank Act of 1945.

It is appropriate, therefore, to call to the attention of my colleagues an article which appeared in the May 8 edition of National Journal, that explains the efforts of the Eximbank to boost our Nation's exports and to help resolve the U.S. balance-of-payments problem.

Through the vigorous efforts of Henry Kearns, President and Chairman of the Board of Directors of the Eximbank since 1969, a new, more active, cooperative, and aggressive image has been forged for the bank.

Mr. Kearns is a highly able, knowledgeable, and dedicated public servant, who previously served as Assistant Secretary of Commerce for International Affairs, chairman of the International Trade Fair Committee, the Trade Missions Committee, the Committee on Export Expansion, the Interagency Committee for the Reciprocal Trade Agreements Act, and Alternate Chairman of the Cabinet-level Trade Policy Committee.

The article from the National Journal follows:

ECONOMIC REPORT/EXIMBANK'S AGGRESSIVE POLICIES ATTACK NATION'S BALANCE-OF-PAYMENTS PROBLEMS

(By John M. Pearce)

The Export-Import Bank, pushed by its new chairman and blessed by President Nixon, is working vigorously to boost the nation's exports and to help cure U.S. balance-of-payments problems.

Eximbank's aggressive president and chairman, Henry Kearns, who took office on March 20, 1969, has started or reorganized many of the bank's most successful lending programs.

In a legislative move now under way, Kearns is seeking greater freedom to expand lending activities by removing Eximbank from the confines of the Administration's budget.

Many agencies in the executive branch have opposed the move, as have the Federal Reserve Board and the General Accounting Office.

But by relying on his close relationship with President Nixon, and by paying close attention to important Members of Congress, Kearns seems about to accomplish his goal.

Change of attitude: The new and revitalized programs are not as crucial to Eximbank's new posture, in the view of Kearns and of the bankers he deals with, as the change the Eximbank chief has wrought in the attitude of the bank's staff.

"The sleeping giant has waked up," A. Robert Abboud, a senior vice president of the First National Bank of Chicago, said in an interview.

Abboud said he had "never seen such vitality" in the bank.

In Pittsburgh, G. J. Alifano, a vice president of Pittsburgh National Bank who deals frequently with Eximbank, said Kearns' most noticeable effect was not his new programs and services, but the fact that he has "conveyed to the entire staff an aggressiveness and willingness to negotiate."

Where loan officers at Eximbank might have turned down applications in the past, Alifano said, they now suggest ways to work out arrangements so that loans can be made.

Although U.S. merchandise exports increased by $5,568,000,000, or 15.3 per cent, during 1970, the first full year after Kearns took over, the effects of the bank's operations are yet to be seen, because of the lag between the time loans are authorized and paid out.

The average lag, Kearns said, is 2½ years.

"I'm not going to take, for the bank, credit for the increase in exports up to now, except in one area," he said.

"I believe that psychologically we have had a definite effect upon the exporting community and upon the banking community."

Bankers share this evaluation.

Eximbank officials estimate that they supported—or, through loans, guarantees or insurance, participated in—$5.5 billion in U.S. exports during fiscal 1970, which ended last June.

Although this figure is not even 10 per cent of the total exports of goods and services, which came to $60.5 billion during the year, it is up substantially from the previous year's support level of $2.9 billion in exports.

Exports for the first two quarters of fiscal 1971 were about $2 billion above the 1970 level, but Eximbank expects to support $7.5 billion in exports, a proportionately greater increase.

Its projection is that it will support $10.6 billion in U.S. exports in fiscal 1975.

Programs: The keystone of Kearns' expanded approach to export financing is his plan for sharing the lending with commercial banks—a device that was used not at all before 1967, and only for sales of commercial aircraft from 1967 to 1969.

In a *National Journal* interview, Kearns said the participation program "is the greatest program of all that we have devised."

"I think it has more potential than anything the bank has ever done," he said.

Two other programs make up the backbone of the Kearns era at the bank:

The discount loan facility, which enables banks, by prior arrangement, to sell their export loan paper to Eximbank during periods of tight money such as the one the economy experienced in 1969 and 1970. It cuts their profit to a bare one-half of one per cent, however, and for that reason is not very popular. The banks want Kearns to widen the margin, which he adamantly refuses to do on grounds that the program "is not a bonanza for the banks, it's a reserve facility to keep them in the export business."

The discount program applies only to export loans with a maturity of longer than one year, but Kearns is planning to expand it to short-term loans as well.

The preliminary commitment program, which allows exporters, their customers and their financing agencies to get assurance ahead of time that Eximbank financing will be available if a deal is made. A preliminary commitment enables exporters to be more certain what the cost of financing will be when they bid on an overseas project—and that it will be available.

ORIGINS OF PROBLEMS

Kearns said that much of his innovation—particularly the expansion of the participation financing program—grew out of the strict ceilings imposed on Eximbank lending by the unified federal budget, which went into effect only the year before he took his job.

Unified budget: The Johnson Administration shifted to a unified budget concept in fiscal 1969 to provide a clearer picture of the flow of funds in and out of government.

Participation certificates—Under the new budget, participation certificates were listed as borrowings rather than as sale of assets, and direct government loans were listed as expenditures, even though they are repaid over a period of time.

The change in treatment of participation certificates sharply curtailed Eximbank's ability to finance its operations by borrowing in the private capital markets.

Budget ceiling—Inclusion of Eximbank in the budget also meant the bank was subject to an authorization ceiling set by the Budget Bureau (now, the Office of Management and Budget). This severely restricted its activities.

Eximbank operated for several months before it was aware of this fact. Kearns said during hearings March 8 before the Senate Banking, Housing and Urban Affairs Subcommittee on International Finance:

"When I assumed my present position in March of 1969, nobody in Eximbank understood that we were under these restrictions of the unified budget, so business went on as usual. On June 10 of that year, the then director of the Bureau of the Budget, Bob Mayo, called me and said that we were going to overspend our authority and that we would have to do something.

"We just could not understand what he was talking about. The OMB advised that we were under the unified budget and that our borrowings could not offset our disbursements. The result was that I had to call 14 banks in the country and renege on commitments we had made to disburse funds in order to meet the year-end budget outlay figure. This was very damaging to our export trade because it actually resulted in restriction of export credit."

Removal of Eximbank from the budget's accounting restrictions would not mean the Administration would lose control over its lending.

As is the case with all other government corporations (such as the Federal Home Loan Bank Board), the Treasury Department must give its approval when one of them wants to borrow money. Approval at Treasury rests with Paul A. Volcker, the under secretary for monetary affairs.

BORROWING FROM TREASURY

In addition to borrowing in private capital markets, which has virtually stopped until the budget impasse is settled. Eximbank borrows heavily from Treasury.

In fiscal 1968, the last year it sold participation certificates to private lenders, the bank raised $570 million from that source while repaying $550 million, for net borrowing of about $20 million.

In the same year, it borrowed $1.88 billion from Treasury while repaying $1.52 billion, in rounded figures, for net borrowing of $361.6 million.

Last year it borrowed $1.56 billion from Treasury and repaid $689.7 million, for net borrowing of $866.3 million. The bank estimates that it will have net repayments of $842 million in fiscal 1971.

OTHER BORROWING

Eximbank's participation certificates were shares of a pool of guaranteed loans, but the bank still retained ownership of the loans. In an effort to find another source of money, it began selling certificates of beneficial interest in individual loans.

Because the ownership is actually transferred to the purchaser, CBS are allowed as sales of assets, and the proceeds are counted as income.

However, the CBI program is very complicated and not very successful, J. Patrick Dugan, Eximbank's treasurer-controller, said.

The certificates are sold in direct negotiations between the bank and the buyers, and cannot be resold to third parties.

In addition, although the loans on which they are based can be—and usually are—guaranteed by the government, they still do not have the credibility of other securities carrying the U.S. government's full faith and credit, because they reflect loans made in foreign countries.

Dugan said the bank sold $400 million in CBIs in fiscal 1970 and has sold about $160 million in fiscal 1971.

Some of them are sold to other governments, he said, and Eximbank tries to sell others to banks for their trust funds and to pension funds. But it usually is able to sell only $10 million or so at one time—a small amount, when compared to Eximbank's financing needs.

OVERCOMING OPPOSITION

The bill (S 581) to exempt Eximbank from the budget now seems likely to be enacted, but its destiny has not always been so clear.

Its success—both in emerging as Administration policy and in receiving favorable reaction on Capitol Hill—is due in large part to extensive persuasion by Henry Kearns.

Kearns has beaten down the opposition and overcome the inertia of several agencies; he has personally visited dozen of Members of Congress in his selling campaign.

If enacted, S 581 not only will remove Eximbank from the Office of Management and Budget's ceiling but also will let it return to private capital markets. Dugan said that no firm plans had been made yet, but that he thought the bank probably would offer regular debentures priced about one-fourth of a percentage point above what the Treasury must pay to borrow over a comparable maturity.

It probably will not return to participation certificates, he said.

Proposal's origin: Kenneth H. Davis, a former assistant secretary of commerce (1969–70), said the proposal to take the bank out of the budget was first discussed in the Cabinet Committee on Export Expansion, which Mr. Nixon appointed early in his Administration.

It is Davis' recollection that the Commerce Department proposed the step, although others said Eximbank was its chief proponent.

In any case, Davis recalled that Kearns did not immediately accept the proposal.

Kearns, however, said the idea arose in Eximbank "as a result of our very intensive study of the needs and problems" of the bank.

In June 1969, he said, when it became clear that the bank's funding was painfully restricted, the staff began a study to decide what to do about it.

"Every time around, we had to come to the conclusion that the real culprit was including us in these (budget) computations . . . As long as we were, there was no assurance that the bank could operate effectively.

But the plan, he said, resulted "entirely from our studies."

Roadblocks: The Administration's support for the bill has a spotted history.

At first, both the Treasury and OMB were opposed, partially on grounds that exempting Eximbank from the budget would set a precedent for other lending agencies, such as the

Small Business Administration, those in the HUD and Agriculture Departments that support housing, and the mass transit operations in the Transportation Department. The argument was that these agencies would clamor for the same treatment.

Kearns' persuasion: Kearns said he worked for a year to convince Treasury and OMB that the change should be made; finally, he said, he had to take his case directly to Mr. Nixon, an old political associate.

"It took a good bit of missionary work, just like any kind of program in this town. You'll never get everybody to agree with you, but you have to keep trying to get enough people to agree with you to get it over in spite of the fact that some will disagree."

He said the year he invested in working for Administration support was worthwhile.

"When you're fighting for the life of the organization it's worth a lot," he said. "It isn't done yet."

Nixon—Kearns said he approached Mr. Nixon about the bill when he was unable to persuade Treasury and OMB to change their minds.

"The President agreed with my position," Kearns said, and although he did not flatly tell the two agencies to change their opinions, "he said they ought to look at it again."

Asked if that were not the same thing, where the President is involved, Kearns smiled and said, "It helped."

Budget—Caspar W. Weinberger, deputy director of OMB, said in an interview that Eximbank's request was "a very special circumstance because of the importance the President places on expanding our foreign trade."

He called it a "very good example" of the way the Administration must determine the relative priorities of suggestions.

The proposal, he said, was a "Presidentially approved measure."

(One of the major goals Mr. Nixon announced in an April 4, 1969, statement was an improvement in the nation's balance of payments.

(He listed export expansion as the first of several important areas, and called for boosting merchandise exports to $50 billion a year by 1973, compared with $34.6 billion in 1968. The increase, the President said, "is primarily the task of American private enterprise, but government must help to coordinate the effort and offer assistance and encouragement.")

Controvery: Kearns never was able to convince the Federal Reserve Board and the General Accounting Office—two agencies which are not obliged to follow Presidential orders—to go along.

Options suggested—Both said there were other ways to accomplish the goals better. The GAO suggested, in testimony before Congress, simply asking Congress to raise Eximbank's expenditure ceiling or increasing its involvement in the economy's private sector, much like the Federal National Mortgage Association. The Fed sent Congress a letter suggesting Eximbank be converted to a private, government-supported corporation like FNMA.

Staff deliberations—"Our staff has studied this matter thoroughly, every which way, and, in our opinion, there is no way Eximbank can participate in export financing the way it should be with the present restraints," Kearns said.

Don Bostwick, Eximbank's executive vice president, said the idea of making the bank a private corporation was discarded about halfway through the staff deliberations.

Another plan, which was considered up to the time a final decision was made, was simply to change the definition of receipts to include borrowing—a step the President's Commission on Budget Concepts had ruled out in 1967, although two of its members, Treasury Secretary (1965–68) Henry H. Fowler and Budget Bureau Director (1965–67) Charles L. Schultze, said in a dissenting footnote that they thought the sale of participation certificates should be a proper offset to lending, as long as the proceeds did not exceed total lending.

Bostwick said several meetings were held with FNMA representatives and Comptroller General Elmer B. Staats, head of the GAO, about turning Eximbank into a private corporation with government support.

The conclusion Eximbank reached, Bostwick said, was that "Eximbank should be a government organization responsive to the administration's trade policies." A major purpose, in his view, would be to counter government-supported credit assistance to exporters in other countries.

He said Eximbank thought government money put into a private export-financing group to bring its interest rates down to competitive levels would violate the General Agreements on Tariffs and Trade.

The GATT agreement, reached in 1958 and adopted by 17 nations which do most of the world's exporting, says a nation may not subsidize export financing to bring the price of its goods in the world market below their price at home.

The agreement applies both to a government that finances exports directly, and to an institution set up by the government for that purpose.

MOVING IN CONGRESS

The bill to remove Eximbank from the budget was first introduced last year, and barely failed to gain congressional approval in the 91st Congress.

The Senate passed the bill unanimously in December, but it died for the session when the House rejected it, mainly for procedural reasons.

This year, the bill again has cleared the Senate, and passage seems assured in the House.

Kearns on the Hill: Kearns has worked hard to ease the legislation's course on Capitol Hill.

Kearns' office said he made 92 visits to Representatives and Senators or, in a few cases, to their legislative assistants in September through October, when last year's bill was being considered at a frantic pace in both chambers.

Every Member of the Senate, or his legislative assistant, was called on by one of four senior officers of the bank: Kearns; Bostwick; John E. Corette III, the general counsel; and Dugan, the treasurer-controller.

Each Senator was left a kit of information about the bill and the bank's operations generally. Some of them requested follow-up visits for more information after they had read the material.

Kearns made it a point to speak personally with Sens. John Sparkman, D-Ala., chairman of the banking committee; Wallace F. Bennett, R-Utah, the committee's ranking minority member, and Walter F. Mondale, D-Minn., chairman of the subcommittee that considered the bill, and sponsor of a companion bill to remove restrictions that keep Eximbank from financing trade with Communist nations.

Senate: Last year, the Eximbank bill was cosponsored by Sparkman and Bennett, was reported by their committee, and was passed without dissent by the Senate on Dec. 18.

Sparkman and Bennett introduced the bill (S 581) again this year, and it was referred to the Subcommittee on International Finance, which Mondale heads.

Bills merged—The subcommittee merged it with a bill proposed by Mondale (S 19) which would remove the absolute prohibition now in the law against Eximbank's financing trade with any Communist country, although it still would prohibit Eximbank participation in any transaction with a nation "which engages in armed conflict, declared or otherwise, with the armed forces of the United States."

There has been no formal Administration position on that portion of the bill, although the Commerce Department opposes relaxing the prohibition.

Several other agencies said they would prefer to have the bill without the change.

Passage—The bill passed the Senate, 67–1, on April 5, with only Sen. William Proxmire, D-Wis., voting against. In an interview later, Proxmire expressed little surprise at the outcome.

"You've got a hell of a combination," he said, "with Mondale, who picks up the liberals, Sparkman, who picks up the conservatives, and the President, who picks up the Republicans."

Reasons for opposition—Even those who oppose taking Eximbank out of the budget—and they are few—do not argue that increased export financing is undesirable.

Proxmire, who fought the bill almost single-handedly on the Senate floor, cited four reasons for his opposition:

To take Eximbank or any other organization out of the budget would destroy the concept of the unified budget. (To this, Weinberger replied that anyone who wanted to know the total of federal spending could simply add Eximbank's net lending to the rest of the budget.)

Giving Eximbank the special position would be unfair to other needy areas of the economy, particularly housing, which also are supported indirectly by government-sponsored borrowing.

There is good authority for the opposition. He cited the opposition of Comptroller General Staats and Federal Reserve Chairman Arthur F. Burns.

Eximbank has done very well without any additional help. Under Kearns, it has increased dramatically the amount of exports its lending has supported. "They have had fantastic increases," he said. "What kind of success do they want?"

Proxmire introduced an amendment to the bill that would have left Eximbank's status within the budget as it was. It was defeated by a vote of 53–14.

Another Proxmire amendment that would have authorized the President to exempt other loan programs from the budget's spending ceiling was defeated, 65–3.

Proxmire said he did not intend to introduce any more legislation in an effort to thwart the budget exemption, but he would "give Eximbank a very careful look-see" when it makes its regular appearances before Congress for spending authorizations.

House: Last year, the Eximbank bill was taken up on the House floor on Dec. 30, without having been considered first by the House Banking and Currency Committee. The bill came up under suspension of the rules and thus required a two-thirds majority for passage.

Although it received a majority, 161–102, it fell 15 votes short of the 176 needed for passage, and died with the 91st Congress.

Opponents, led by Rep. Otto E. Passman, D-La., chairman of the House Appropriations Subcommittee on Foreign Operations, and by Rep. H. R. Gross, R-Iowa, objected primarily to the bill's timing. Passman said both the banking and appropriations committees should hold hearings.

The House Banking and Currency Committee is preparing to consider the Senate-passed bill this year. Its chairman, Rep. Wright Patman, D-Tex., has referred S 581 to the International Trade Subcommittee, headed by Rep. Thomas L. Ashley, D-Ohio. A spokesman said Ashley plans to begin hearings on the bill May 17 and finish by May 27.

During floor debate last year, Patman told the House that "a poll of the members indicated no objection to the bill from your Committee on Banking and Currency from either side."

Kearns appeared before the House Appropriations Committee in early April to discuss removing his institution from the budget.

He failed to convince Passman, who told *National Journal* that, while he supports increasing the bank's lending authority, he opposes taking it out of the budget.

With House passage his only remaining hurdle, Kearns has begun a series of meetings with Representatives, seeing two or three of them on most days.

EXIMBANK'S IMPACT

Kearns responded to Eximbank's budgetary problems and to Mr. Nixon's interest in improving the balance of payments by starting some new programs and adapting others for wider use.

His main goal was to stretch Eximbank's money as far as possible to encourage and finance more exports.

Balance of payments: When the Nixon Administration began, the U.S. balance-of-payments position was in serious trouble. Exports were increasing, but imports were rising faster.

Last year, the most familiar measurement of the balance of payments, the "liquidity balance," was in deficit by $3.8 billion, something of an improvement from the $7.0-billion deficit of 1969.

Merchandise trade, which Eximbank affects through its financing of exports, is the largest factor in the balance of payments. The balance on merchandise trade was in surplus by $2.2 billion last year, up substantially from the $638 million of 1969.

The flow of money out of the country was more than enough to offset the favorable merchandise trade balance, and the Administration has put heavy emphasis on increasing exports to narrow the balance-of-payments gap.

Last year's gain aside, imports have risen so rapidly in recent years that the margin of exports over imports—or the merchandise trade surplus—is substantially reduced.

In 1964, exports, at $26.5 billion, were almost 42 per cent over imports, at $18.7 billion.

By 1969, the difference was under 2 per cent, although in 1970 it increased to 5.5 per cent on exports worth $42.0 billion and imports worth $39.9 billion.

Exports: Mr. Nixon's goal of $50 billion a year in exports by 1973 had been half accomplished by 1970, as exports had risen from $34.6 billion in 1968 to $42.0 billion.

Bankers on Eximbank role—Although Kearns does not take credit for export increases so far, bankers say his new programs have increased their exporting business.

Pittsburgh's Alifano said more business is definitely being done. He cited specifically an upgrading of Eximbank's guarantees that costs of engineering feasibility studies will be paid, and an expanded program for financing "local" costs of getting exported machinery into operation.

William Boyd Jr., a senior vice president of Pittsburgh National Bank and president of the Bankers Association for Foreign Trade, said Eximbank's increases have not gone as far as they should yet, "because the funds were not available."

"If the Eximbank is to be effective, it has to have an ample source of financing," Boyd said. "If the funds cannot be made available inside the budget, then it's got to be taken out of the budget."

In New York, John A. Bush Jr., an assistant vice president of Marine Midland Bank, said Eximbank had enabled his bank "to accommodate our customers more readily."

Kerns, he said, "has done a tremendous job as far as we are all concerned."

He said Eximbank's discount program "enabled us to keep the door open to customers," but that in February, as a result of easier money, Marine Midland repaid Eximbank. It kept the government guarantee of protection against political and credit losses, however.

Eximbank's basic interest rate is now 6 per cent. So when the prime rate is higher than that—it hit a high of 8.5 per cent in June of 1969—commercial banks are able to make more money by laying off their export loans on Eximbank and lending the money elsewhere.

But with the drop in the prime rate—it reached a low of 5.25 percent on March 19—"it paid for us to keep the loans ourselves," Bush said.

The prime rate at most banks rose to 5.5 per cent late last month, and there is a widespread opinion among bankers, including Bush, that interest rates will continue to rise during the rest of the year.

"If that happens," he said, "we will approach Eximbank, just like the others."

Kearns view—Kearns said in the interview that his agency will "certainly" take back the loans if the banks find it necessary.

"We did have, at one time, about $570 million outstanding, but that's nearly all been paid back," he said.

"That's fine. We're not trying to loan the money, we're trying to get the exports. This is one of the things that I think is so frequently misunderstood.

"This institution isn't in the business of loaning money; this institution is in the business of trying to increase exports, and anything we can do to increase exports is entirely our purpose."

Impact on payments: The impact of Eximbank's loans and guarantees on the balance of payments, at least in the short run, is something everyone agrees on.

Negative views—Fed Chairman Burns, in a letter to Sparkman on Sept. 16, 1970, said that "to the extent that the bank's credit is used to substitute for offshore (foreign) financing of our exports, our balance of payments will suffer."

One professional who holds the view that the Eximbank's new programs actually may have hurt the balance of payments is David T. Devlin, chief of the Balance of Payments Division of the Commerce Department's Office of Business Economics.

Devlin pointed out that if exports are financed by "offshore" sources—foreigners or foreign branches of U.S. banks—the full value of the export helps the balance of payments.

If, on the other hand, the export is financed by American sources—whether Eximbank, a commercial bank, or the supplier—the value of the export is offset in the short run by the capital outflow.

The buildup, begun when Kearns revitalized the bank, Devlin said, "could actually be hurting now." The situation would change over the long run as the loans are repaid, however.

Kearns response—Kearns disagrees strongly with this view. He said the bank's studies show that about 25 per cent of the exports it financed last year were paid for in cash, either by down payment or offshore financing.

"So you get about a 25-per cent immediate balance-of-payments impact; then the balance of it comes in over a period of time.

"The average length of time of all financing we do is about seven years; so you get 25 per cent the first year and the balance will be spread over seven years."

Kearns says that worrying about the short-run problem is useless, anyway.

"In my opinion," he said, "the only way the balance-of-payments problem is going to be solved is by looking at it in the long run, not short run. These short-run palliatives that have been applied—restrictions on investment, all of these things—are counterproductive. They tend to reduce the effort to really increase foreign income."

Kearns said he realizes the Fed thinks Eximbank's efforts may actually cost the nation's balance of payments.

"I don't think they have one ounce of evidence that that's true. They might say, 'If we didn't finance it (foreign buyers) would pay cash.' We say, 'You show us the evidence that the sale would have taken place if we hadn't financed it.' "

High-technology exports: One of Proxmire's arguments against the pending Eximbank legislation is that the bank finances heavily in industries where the United States has unquestioned technical superiority, such as the commercial airline industry. His point is that in these areas, there is no need for the additional incentive of Eximbank financing.

Kearn's reply is that foreign airlines just may not buy as many planes without financing.

"Many of the customers we have say, 'We can either order seven aircraft with financing, or we'll order two and use our present aircraft' " if they have to pay cash.

In addition, he said, some of the airlines buy enough planes so that they could justify setting up an effective competition in another country if financing were not available.

As an example, he cited Japan Air Lines.

Between now and 1975, he said, the airline will buy $2 billion worth of airplanes in this country, of which Eximbank will finance about $453 million.

"Two billion dollars from one customer would be enough to establish an effective competitor in another country," he said. "You take that and add three or four more, and you really have some problems.

"You say we have a lock on the jet aircraft business. The only reason is that we're taking care of it.

"I can remember when the United States had a lock on the automobile business. Before World War II the United States exported 95 percent of all the automobiles in the world. Now we import 15 percent and we export practically nothing.

"You can't take those markets for granted. That's the most dangerous thing in the world."

OUTLOOK

The most acclaimed new export-expansion program being organized now is a privately funded but government-endorsed organization called the Private Export Funding Corporation—PEFCO for short.

Bankers group: PEFCO is the creature of the Bankers Association for Foreign Trade. William Boyd, of the Pittsburgh National Bank, is president of the bankers association. He said PEFCO's main goal is to fund the "big ticket"—expensive items that exporters might have trouble financing through only one commercial bank and Eximbank.

PEFCO's prospectus says it intends to buy "debt obligations (loan notes) arising from the sale of U.S. products and services to foreign importers."

Both principal and interest on the notes will be guaranteed by Eximbank. Because of the Attornely General's opinion that Eximbank dealings carry the full faith and credit of the federal government, PEFCO is confident it can borrow money in the private markets at an attractive rate.

Large transactions—"What it will do is provide a source of private capital to handle large transactions," Kearns said.

"As it is now, in the big transactions, it's usually necessary for one big commercial bank to take the lead and go out and find others to participate with them in putting together these very large sums of money.

"This is cumbersome and sometimes not as effective as it should be, although up to now we have been able to handle it."

When PEFCO is in full operation, Kearns said, Eximbank will refer someone with a large transaction to PEFCO, which will then

"go to its commercial bank members and say. 'We have this transaction. How much of it do each of you want?' "

Kearns said he expects Eximbank's arrangements with PEFCO to be much the same as they are with banks—the bank assumes the early part of the loan and is paid off first, and Eximbank takes the later maturities.

The procedure now is for the buyer to make a 10-per cent down payment and for Eximbank and the commercial bank each to finance half of the remainder.

Example—Boyd cited as an example a $50-million steel mill for Venezuela that a Pittsburgh company wanted to bid on.

"We really had to scratch around for $50 million, and that's not easy," he said. In the end, Eximbank had to promise to back the entire project to ensure that the bid could be made.

The Pittsburgh company did not get the order, Boyd said, because a German firm bid a lower price.

Progress—PEFCO originally asked that Eximbank guarantee repayment of part of its operating losses, but the Justice Department, in an advisory opinion, said the bank did not have statutory power to do so.

Justice did approve a later plan under which PEFCO's portfolio will consist only of Eximbank-guaranteed loans, thus protecting the prinicpal on PEFCO loans. Eximbank also will guarantee the purchasers of PEFCO debt securities that they will be paid the interest on their loans.

A subscription agreement has gone out to all the banks that said they would participate in PEFCO's operation, and some have sent checks to pay for their initial share of the $10 million to $15 million of common stock the corporation plans to sell.

The idea for PEFCO is not part of Kearns' new initiatives to increase exports. It originated 10 years ago. But bankers have no doubt he supports it.

"I am convinced Henry Kearns is enthusiastic about the possibilities of PEFCO," Boyd said.

Insurers: In another move designed to make exporting easier—also with Eximbank's encouragement—the Foreign Credit Insurance Association, a consortium of private insurers who insure exports, has launched an effort to boost its policy writing from its present $1 billion a year to $10 billion in 1975.

FCIA, which works closely with Eximbank, announced April 28 that it would strengthen its internal structure, set up eight new regional offices (it already has four), and installed automated information-storing and communications equipment to speed its work.

Future plans: The one major plan Kearns has for Eximbank is a new discount program for short-term loans of less than one year.

"It's the surest thing I can think of," Kearns said, although he pointed out that the program hinges on enactment of the bill to take Eximbank out of the budget.

Kearns wants the House to act soon on the budget legislation, so the new program can be considered at the same time as Eximbank's 1972 budget. The budget still would be sent to Congress—and Congress would set annual lending ceilings—even though the bank's activities would not be included in budget totals.

"If the legislation is passed before our 1972 budget has been approved, we could ask for a correction in the '72 budget.

"If our budget is approved, we would have to go through on a supplemental, which is much more difficult and costly in time," he said.

EXIMBANK'S MAJOR NEW PROGRAMS

In addition to his efforts to make the Export-Import Bank more responsive to customer needs, Henry Kearns, its president, has overhauled its operations and begun a series of new programs.

All of these steps are designed to boost exports and to increase American companies' interest in selling abroad.

Kearns, who is also Eximbank's board chairman, says three of the new programs—participation financing, discount loans and preliminary commitments—are most important to the bank's new emphasis.

Following is a description of these and other new Eximbank initiatives.

Participation financing: The hub of this program is Kearns' idea—borrowed from the Morgan Guaranty Trust Co. of New York—that commercial banks should participate in financing exports.

Beginnings—Morgan Guaranty began the program in 1967, when it asked Eximbank to share the financing for three Boeing 737s that National Airways Corp. of New Zealand wanted to buy. They each took half of the financed portion of the 10-year, $13.3-million deal.

For the next two years the participation program was used to finance commercial jet airliners, one of Eximbank's biggest export items.

When Kearns took over, he expanded participation financing into other areas, and he says the bank now makes no loans without commercial bank participation.

Terms—The terms in the program are these:

The buyer makes a 10-per cent down payment. Eximbank and a commercial bank (or a consortium of commercial banks) each put up 45 per cent.

The commercial bank charges its regular interest rate, which can be 10 percent or occasionally higher, while Eximbank charges 6 percent, thus reducing the over-all interest cost to a figure competitive with other exporting countries.

Normally, the commercial bank is paid off first—in the first four or five years of a 10-year deal, for example—and its participation is guaranteed by Eximbank.

Eximbank also guarantees the first 6 per cent of the commercial bank's interest rate, although Eximbank will insure all the interest if the commercial participation money comes from "offshore" sources such as a foreign bank or a foreign branch of a U.S. bank.

If another institution, such as a pension fund or insurance company, participates, all of its interest is guaranteed. Eximbank's decision to insure nonbank institutions fully against losses was made only four months ago.

Discount loans: This program allows commercial banks to make export loans and then to borrow the money they have loaned from Eximbank, at either 1 per cent or 0.5 per cent less than the interest rate they charged for their initial loans.

If neither Eximbank nor the Foreign Credit Insurance Association, a group of 50 major insurance companies, participates directly in a transaction (either by loan or guarantee), Eximbank will discount banks' loans at 1 per cent. If the transaction is insured or guaranteed, the margin is 0.5 per cent.

In effect, the arrangement limits bank profits to the marginal difference between their interest rate and Eximbank's rate, but the program enables commercial banks to keep lending during periods of tight money.

If Eximbank is freed of restraints placed upon it by the unified federal budget, Kearns said, the discount program may be liberalized to include shorter-term loans, but not to make the program more profitable for the banks.

Preliminary commitments: In 1970, Eximbank set up a preliminary commitment program under which any potential customer—buyer, seller or commercial bank—can receive assurance ahead of time that financing will be available.

In January and February of 1971, Kearns said, Eximbank received 461 preliminary commitment applications, of which 63 were converted into authorized credits.

Of the $8.7 billion in applications, he said, $4.6 billion remain, and "we expect that between 80 and 90 per cent of them will be converted into purchases from the U.S."

He said applications now run at a rate of $750 million a month, making preliminary commitments the most popular of Eximbank's new programs.

Eximbank puts great emphasis on speed in cases where quick information and commitments on financing can make the difference between a sale and no sale.

"An inquiry by letter to Eximbank will provide the answer promptly, in three weeks at the most, and usually less time," Kearns told the American Chamber of Commerce in Hong Kong in March.

"If the transaction is acceptable," he said, "Eximbank's response will be a commitment as to the amount, nature and conditions of the available credit."

Other programs: In addition to its big three, Eximbank has set up or revised 20 other programs affecting its methods of financing and its relations with exporters and financers. Major examples:

Relending credit—Eximbank, for the first time, has involved foreign banks in its financing, making available credit lines which they use to relend to small and medium-sized buyers.

By making the money available this way, Eximbank hopes to seed the foreign lending area so that buyers will continue to trade with U.S. suppliers using private sources of financing.

Local cost financing—This program, begun in mid-1969, guarantees payment of the costs of putting exported machinery into operation at the site, which can be a substantial portion of the total cost of a project.

Lease guarantee—A year-old program guarantees payment for equipment leased for use in foreign countries. It was used, for example, when the Yugoslavian airline Jugoslovenski Aerotransport leased an airplane.

Equipment losses—The bank will also guarantee engineering firms against losses of their equipment for political or related causes. For example, it protects oil companies against expropriation of their equipment.

EXIMBANK PRESIDENT HENRY KEARNS

Henry Kearns is a man on the go. In a year, he has made flying trips to Asia, Africa, Europe and Latin America, all with the same purpose—selling the services of the Export-Import Bank.

Kearns, a 60-year-old, silver-haired perpetual motion machine, began his business career as an automobile salesman and progressed to organizer and promoter of businesses in the Far East before President Nixon chose him to be president and chairman of Eximbank in March 1969.

It is not his first government job. He was assistant commerce secretary for international affairs during the last three years of the Eisenhower Administration, and before that he served on the second Hoover Commission's task force on intelligence activities.

Travels for Eximbank: The hallmarks of Kearns' Eximbank administration have been travel and publicity.

Last May he went to Yugoslavia, Italy and the Netherlands, and in June he visited Chile, Brazil and Argentina. In September he went to Denmark.

This year, in January and February, he went to Spain and Africa, stopping in countries both north and south of the Sahara. In March and early April he toured Asia, stopping in Nationalist China, the Philippines,

Hong Kong, Thailand, Singapore, Korea and Japan.

At each stop the routine was much the same: speeches (many of the texts were also issued in Washington), news conferences and meetings.

Eximbank's public information office, which diligently keeps track of Kearns' activities, noted that he was the subject of 118 separate news items during his Latin American tour last year.

Kearns has been organizing things, in government or business, throughout his career.

When he was working in the Commerce Department, one of his tasks was the organization of a U.S. exposition in Moscow. The exhibits of American houses and consumer goods provided the forum for then Vice President Nixon's "kitchen debate" with Soviet Premier Nikita S. Khrushchev on July 24, 1959.

Association with Nixon: In an interview, Kearns said his involvement with the Republican Party began 42 years ago; he would have been 18 years old then.

Kearns said he was an active worker in Mr. Nixon's first two campaigns, for the House in 1946 and for the Senate in 1950.

In 1952, when Mr. Nixon ran for Vice President on the ticket with Dwight D. Eisenhower, Kearns was one of the organizers of a Republican campaign organization, the Committee for Young Men in Government. In 1956, he was chairman of the Eisenhower-Nixon reelection campaign in southern California. In 1960, the year Mr. Nixon was defeated by John F. Kennedy, Kearns worked full time on the Nixon campaign, mostly, he said, as an organizer of campaign workers.

He worked sparingly in Mr. Nixon's unsuccessful campaign for Governor of California in 1962 because, he said, he had only recently left the government and "at that time I was trying to glue my own business together." He was out of the country much of the time.

In 1968, Kearns was vice chairman of the Republican National Finance Committee. The chairman was Maurice H. Stans, who was to become Commerce Secretary.

Business life: Kearns was born in Salt Lake City, but moved to California in his youth and spent most of his business career there.

California—He headed companies in South Pasadena from 1940 to 1946, then took his operations to San Gabriel, where he was head of an automobile agency, two real estate firms, an insurance company and an auto rental agency. In LaVerne, Calif., he owned a commercial citrus farm.

Overseas ventures—Kearns began his overseas business activities in 1960, after he left the Commerce Department.

He headed Kearns International, Henry Kearns Inc., and American Capital Corp., all involved in international ventures.

In 1964 he became a partner in International Development and Engineering Associates in Thailand, and in 1966 he became vice president for international affairs of Pike Corp. and president of National Engineering Science Co., a Pike subsidiary, in Los Angeles.

From 1967 until he took charge of Eximbank, he concentrated on his own enterprises. "I didn't export directly," he said in the interview. "I was developing business, all kinds of businesses, primarily in the Far East."

Stock problem—One of the businesses Kearns developed brought some of the few questions about his qualifications when he appeared before the Senate Banking Committee for confirmation hearings on Feb. 13, 1969.

In Thailand, he had helped to develop Siam Kraft Paper Co., which had a loan from Eximbank.

Kearns agreed to put the stock in a blind trust when he found that he could not sell it—the company had not started operations and thus had no profits. In the interview, he said he would still like to sell the stock, which the trust still holds.

East-West trade views: One subject about which Kearns underwent concentrated questioning during confirmation hearings was East-West trade.

Sen. Walter F. Mondale, D-Minn., questioned him closely about a statement he had submitted to the Senate Foreign Relations Committee in 1964. Mondale called the statement "one of the most conservative anti-East/West trade statements in the entire testimony" heard by the Foreign Relations Committee, and said that Kearns seemed to be "against virtually any trade with Eastern Europe."

Kearns had said that reviews of East-West trade policy at that time "always have been conducted with an implication for relaxing present government attitudes and restrictions. It's time this trend toward a softening of our approach is reversed. Our friends desire to know whether our present and future actions are dictated by sound moral principles or by immediate political expediency."

Kearns said in 1969 that he still held that view, but would, if confirmed, "subjugate my personal opinion to the good of the country."

In his recent *National Journal* interview, he said the situation had changed between 1964 and 1971.

"In 1964, when I testified, it was a private citizen who had just completed a study of East-West trade, and I did express some questions as to whether there was as much trade as was being discussed," he said.

"Two things have happened since then. One is that I am now in an institution that isn't a policy maker but is rather an action organization, so my personal views have nothing to do with it at all. We're prepared to administer the affairs of Eximbank any way the Congress tells us to.

"The other is that I do think today there is much less reason for restrictions than there was in 1964. And I think the potentials for trade are considerably greater."

PROVISIONS OF THE EXIMBANK BILL

The bill that would remove the Export-Import Bank from the restraints of the federal budget came from two sources: the Administration, which wanted the budget provision, and Sen. Walter F. Mondale, D-Minn., who wanted to lift the ban on Exibank financing of trade with Communist countries.

Mondale's subcommittee merged the two proposals, and the Senate passed the bill (S. 581) on April 5 by a vote of 67 to 1.

As outlined by the Senate Banking, Housing and Urban Affairs Committee's report (S. Rept. 92–51), these are the bill's major provisions:

An addition to the Export-Import Bank Act of 1945 (12 USC 635) would exclude Eximbank's receipts and disbursements from the budget and exempt its operations from any expenditure and net lending ceiling. The President would be required to submit two reports to Congress each year: one, a budget for program activities and administrative expenses; the other, an analysis of how much of Eximbank's net lending would have been included in the unified budget if the new bill had not passed. The report on lending would give a clear picture of what the budget would be if Eximbank's lending were still included.

Eximbank's authority to guarantee and insure export loans, and to secure the guarantees and loans with a reserve of 25 per cent, would be increased from the present $3.5-billion limit to $10 billion.

The maximum aggregate amount of loans, guarantees and insurance the bank can have outstanding at any one time would increase from $13.5 billion to $20 billion.

The bank's life would be extended past the present expiration date of its charter, June 30, 1973, to June 30, 1976. Its authority to sell debt obligations maturing later than its own expiration date would be clarified.

A provision forbidding it to finance exports from Communist nations would be replaced by a provision forbidding it to finance trade with nations at war—declared or undeclared—with the United States.

A new provision would require Eximbank to provide financing "reasonably competitive" with the government-support financing of the United States' trading competitors.

Within 300 days after enactment of S. 581, the President would be required to report to Congress on how much the congressionally imposed fiscal 1971 expenditure ceiling will be reduced by taking Eximbank out of the budget.

EXIMBANK GUIDELINES, PROCEDURES

The Export-Import Bank operates under five broad principles set down in its basic legislation (12 USC 635).

Eximbank has developed a procedure for evaluating loan and guarantee applications on the basis of these guidelines that involves a two-stage staff appraisal of each application before the bank's board of directors renders a final decision.

Principles: The five principles are as follows:

Loans are made for specific projects involving the export of goods and services of U.S. origin.

Eximbank supplements and encourages private capital and endeavors not to compete with it.

Loans and financial assistance are authorized only when Eximbank finds that a transaction offers reasonable assurance of repayment, and where there is convincing evidence that the purchase or contract will significantly add to the economic well-being of the borrower and the host country.

Fees and premiums for guarantees and insurance are charged at rates commensurate with the risks covered.

In authorizing loans and financial assistance, Eximbank takes into account the possible adverse effects of bank-supported projects upon the U.S. economy.

Loan procedure: When an application for a loan or a guarantee is received—it must conform with a three-page list of iinstructions produced by Eximbank's public affairs office—it is sent to a loan officer for initial action.

After he is satisfied that the application is in order, it is sent to the legal department for evaluation. Then it is forwarded to the directors.

On transactions involving more than $10 million, the directors have agreed to submit the applications to the National Advisory Council on International Monetary and Financial Policies, headed by the Treasury Secretary.

The council's function is to see that the transaction conforms with national policy and does not overlap with any project which may be in preparation at another lending agency, such as the International Bank for Reconstruction and Development.

After the council gives its opinion, the application is returned to the Eximbank directors for final action.

EXIMBANK'S CLIENTS

Although the Export-Import Bank's financing operations cover the full range of American exports, the bulk of its business, in dollar terms, involves expensive, high-technology items such as commercial jet airliners and power plants—frequently nuclear plants.

Every major U.S. manufacturing company which exports deals with Eximbank at some point in its transactions, although some also deal with the Communist nations of East-

ern Europe without the help of the bank, which is banned from that area under present law.

The bank is prohibited from financing weapons sales to underdeveloped countries, although it can and does finance arms going to other nations.

Client companies: The 10 U.S. companies which do the largest dollar volume of business with Eximbank support are McDonnell Douglas Corp., Boeing Co., Lockheed Aircraft Corp., General Electric Co., Westinghouse Electric Corp., General Telephone and Electronics Corp., Ford Motor Co., General Motors Corp., Caterpillar Tractor Co. and United States Steel Corp.

Client nations: Eximbank has made more loans in Latin America than in any other part of the world, but it has been busier in Japan than in any other single nation.

Since it was founded in 1934, the bank has authorized more than $35 billion in loans and guarantees to spur exports to 168 countries.

The 10 nations whose importers have used Eximbank most heavily are, in order of use: Japan, United Kingdom, Mexico, Brazil, France, Italy, Canada, Australia, Argentina and Spain.

The 10 nations with which Eximbank has had the largest dollar volume of dealings during fiscal 1971 are: United Kingdom, Australia, Spain, Mexico, Japan, Argentina, Colombia, Iran, Italy and Venezuela.

EXIMBANK DIRECTORS

Final authority to approve or deny Export-Import Bank loans and guarantees rests with the five members of the bank's board of directors.

All five directors are appointed by the President and may be removed by him, but Eximbank's basic authorizing law (12 USC 635) says that only three may belong to the same political party.

The directors and most of Eximbank's 345 employees work in its headquarters at 811 Vermont Ave. NW, a triangular building two blocks from the White House.

Eximbank has only two offices outside of Washington: one in Vienna, for European operations, and one in Hong Kong, for the Far East. Both have been established since President Nixon took office.

Kearns: Eximbank President Henry Kearns, 60, a Nixon appointee, is chairman of the board.

Sauer: The vice chairman is Walter C. Sauer, 66, who joined the bank in 1941 and has worked for it since, except for Navy duty in World War II and 20 months as chief of the Treasury Department's international tax staff in the early 1950s. Sauer, whose Eximbank biography says he has no party affiliation, was promoted from executive vice president of the bank to first vice president and vice chairman of the board in 1962 by President Kennedy.

McCullough: R. Alex McCullough, 53, who was appointed by President Nixon in 1969, is a former newspaperman and administrative assistant to Sen. Strom Thurmond, R-S.C. A Republican, McCullough came to Eximbank from a senior vice presidency of the South Carolina National Bank, which he joined in 1957 after two years with Thurmond.

Clark: John Conrad Clark, 59, a Democrat who also was appointed by Mr. Nixon in 1969, is a former municipal bond trader and assistant bond department manager for the Chase Manhattan Bank of New York. He joined Eximbank after serving as senior vice president and manager of public finance for the Wachovia Bank and Trust Co. in Winston-Salem, N.C.

Lilley: The fifth director, held over with Sauer from the previous Administration, is Tom Lilley, 58, who was appointed in 1965 by President Johnson, after 17 years with Ford Motor Co. Lilley is a Republican.

Kearns' salary as chairman is $40,000 a year; the other directors receive $38,000.

THE NEED FOR EMERGENCY STRIKE LEGISLATION

(Mr. HARVEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HARVEY. Mr. Speaker, only a little more than 5 months ago, this body wrestled with and enacted emergency legislation, thus heading off a threatened national railroad strike. But, here we are—some 157 days later—in the midst of a nationwide strike.

Now, unless Congress or the President acts, the economic structure of our Nation will be imperiled. But, unfortunately, neither can act toward finding a permanent solution to the problem of national transportation strikes—at least under present law. The only possible solution can be temporary.

On Thursday last, I introduced legislation—H.R. 8385—that would face up to this problem by providing a means of arriving at permanent solutions to the railroad labor-management disputes without a stampede to action by either the executive or the legislative branches, and without the threat to the economic life of the Nation. It is my hope that speedy consideration will be given to this bill.

Mr. Speaker, I ask that a short analysis of H.R. 8385 follow my remarks.

ANALYSIS OF MR. HARVEY'S BILL H.R. 8385

(To Amend the Railway Labor Act Regarding National Emergency Disputes)

I. OBJECTIVES

A. To protect the public interest in national railroad and airline disputes.

B. To provide equitable mechanisms for settlement of those disputes.

C. To ensure that *ad hoc* legislation regarding individual disputes will not be necessary.

II. MAJOR PROVISIONS

A. Retains RLA as enabling statute. Avoids disruption of non-emergency provisions of RLA.

B. Provides alternative choices of action to President and freedom for him to sequence those actions. Gives flexibility to executive to fit individual situations; provides degree of uncertainty necessary to induce parties to undertake real collection bargaining.

C. Allows selective strikes at option of President. Protects right to strike while also protecting public interest; prohibits retaliatory national lock-out, but allows rule changes to counter strikes.

D. Allows final offer selection at option of President. Provides for settlement when inability to reach agreement is harming public interest; avoids those aspects of compulsory arbitration which induce parties to maintain unreasonable positions.

III. DETAILED PROVISIONS

SEC. 10. Amends to give 60 days (rather than 30) cooling-off period; notice invokes new Title III provisions; retains same "trigger" language: " . . . threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service . . .".

SEC. 301. Requires National Mediation Board to recommend actions privately to President.

SEC. 302. Provides for emergency board during 60 day period (same as current Sec. 10 boards)

SEC. 303. Requires President to proceed with Sec. 305, 306 or 307 at end of 60 days if "trigger" still applies:

Specifies that he may take such actions in any sequence.

Requires that he continue to take action until settlement.

Requires that he proceed initially with selective strike unless the national health and safety would thereby be immediately imperiled.

SEC. 304. Provides two days to terminate any selective strike if new action is taken by President.

SEC. 305. 1st Alternative: Additional 30 day cooling-off with mediated bargaining.

SEC. 306. 2nd Alternative: Selective strike, patterned after Staggers-Eckhardt bill (HR 3595) but with modifications:

Limits strike to 20% of revenue ton miles in each region (unless only one carrier in a region is struck),

Retains prohibition against national lockout,

Deletes provision in HR 3595 which effectively prevented carriers from instituting rule changes nationally under selective strike conditions.

Retains provision requiring maintenance of essential services.

Provides that agreements reached with struck carriers be offered intact to other carriers.

SEC. 307. Third Alternative: Final Offer Selection, patterned after provisions of Administration bill (HR 901), with modifications:

Provides more time for final offer submission (5 days vs 3) and panel selection (10 days vs 5),

Provides that final offers remain sealed while panel conducts hearing.

Provides that parties continue to bargain during hearings.

Provides that after 30 day hearing, panel opens offers and makes selection, but does not identify source of selected offer and returns all other offers without disclosure of contents.

UPDATING THE BAIL REFORM ACT OF 1966

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, I have introduced today two administration bills which are designed to update the Bail Reform Act of 1966 to meet the problems confronting the Federal bail system.

The first bill contains a number of basic bail reform measures but not pretrial detention. Many of these reforms have been recommended by the American Bar Association. Because they are not controversial and, more importantly, because they are badly needed, I sincerely hope that the Judiciary Committee will hold prompt hearings on the proposals contained in this bill.

These proposals to amend the Bail Reform Act may be summarized as follows:

First. Authorization for the judicial officer to consider danger to another person or to the community in setting nonfinancial pretrial release conditions. This proposal has been widely accepted and has been endorsed by the President's District of Columbia Crime Commission, the

American Bar Association Pretrial Release Committee, the District of Columbia Judicial Conference Committee and others who have studied the operation of the Bail Reform Act.

Second. Authorization for revocation of release whenever a person violates a condition of his release, intimidates or threatens a witness or juror, or commits a new offense, felony only. This proposal is modeled after the American Bar Association's Minimum Standards for Criminal Justice—Pretrial Release.

Third. Tightening of release on bail pending appeal. With respect to persons convicted of a criminal offense and sentenced to a term of imprisonment, this proposal favors detention pending appeal unless the person convicted can show he is not likely to flee or pose a danger to any other person or to the property of others, and the appeal raises a substantial question of law or fact.

Fourth. Creation of a specific statutory right for the Government to appeal from orders of release. This provision would put the Government on the same appeal footing as defendants. The Government would have the right to appeal release orders in capital cases and cases pending appeal. In addition, the Government would have the right to appeal the refusal of the judicial officer to set certain conditions in connection with a release.

Fifth. Creation of a specific statutory right for defendants to appeal from detention orders in capital cases and cases pending appeal. While this right to appeal presently exists, it is not spelled out in the Bail Reform Act.

Sixth. Strengthening the penalties for bail jumping under 18 U.S.C. § 3150. Under this proposal, the judge, if he chooses to impose a term of imprisonment, would be required to impose not less than 1 year if the bail jumping was from a felony or not less than 90 days if the bail jumping was from a misdemeanor. The judge is not precluded, however, from suspending the sentence or granting probation for the bail jumping.

Seventh. Clarify the meaning of "willfully fails to appear" in the bail jumping section, 18 U.S.C. § 3150. This proposal would make it clear that failure to appear after notice of appearance date is prima facie evidence of willful failure to appear. In addition, a warning of the bail-jumping penalties at the time of release would not be a prerequisite to bail-jumping conviction. Finally, this proposal would permit a finding of willful failure to appear even though actual notice of the appearance date was not received if reasonable efforts to notify the defendant were made, and the defendant by his own actions frustrated receipt of actual notice.

Eighth. Additional penalties for persons convicted of committing offenses while on release. Under this provision, any person convicted of committing a felony while on release shall receive an additional penalty of not less than 1 nor more than 5 years or in the case of a misdemeanor not less than 90 days nor more than 1 year. The judge is not precluded, however, from suspending this sentence or placing the defendant on probation.

Mr. Speaker, the second administration bill deals exclusively with pretrial detention of certain dangerous criminal defendants. It provides Federal judges with authority to deny for 60 days pretrial release of certain defendants charged with a "dangerous or organized crime act" who are found to be dangerous after a hearing with appropriate procedural safeguards. A "dangerous or organized crime act" is specifically defined to include only the following offenses: loan sharking, racketeering, sale of drugs, aircraft hijacking assaults, bombing, kidnaping, and robbery. This proposal for pretrial detection is different from the provision enacted last year in the D.C. Court Reform Act which focused on the street criminals. This bill directs itself to the wanton mercenaries of organized crime who can afford to post any bond no matter how high, but who are so dangerous that their release will jeopardize the safety of the community.

The pretrial detention section of the D.C. Court Reform Act raised considerable controversy. There was substantial debate concerning its wisdom and constitutionality. The District of Columbia provision went into effect on February 1, 1971, and as of this time, neither the D.C. Court of Appeals nor the Supreme Court of the United States has ruled on its constitutionality. Therefore, I am introducing this bill with the recognition that the Judiciary Committee will probably not consider it until such time as the courts have approved the constitutionality of pretrial detention and the effect of pretrial detention in the District of Columbia has been studied.

ACTION ON OIL POLLUTION

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I rise to commend Chairman Train of the President's Council on Environmental Quality for his leadership to protect our marine environment from both national and international sources of pollution. Oil pollution is one of the major threats to the seas, our beaches, and marine life. Oil spills kill waterfowl and vertebrate and invertebrate marine life, as well as the plants that support them. The animals that survive are contaminated with toxic traces of oil, which are transferred to predators.

Chairman Russell Train of the Council on Environmental Quality recently told the American Petroleum Institute's Tanker Conference that the President is determined to eliminate oil discharges on the high seas, and called for industry cooperation in meeting this common goal. The United States is taking the lead, not only in national regulation of oil transport, but also in obtaining major international agreements to eliminate oil discharges by the oil carriers of other nations.

In a meeting with the World Environment and International Cooperation of Members of Congress for Peace Through Law, Mr. Train described U.S. initiatives in NATO which resulted in the action of the NATO Oil Spills Conference banning discharges of oil into the oceans by 1975, if possible, and no later than 1980. The United States is vigorously supporting action in other international bodies to gain worldwide acceptance of the NATO recommendations.

The risk of vast oil spills is going to be even greater in the future, due to economic pressures for the construction of larger and larger tankers. The two oil tankers which recently collided in San Francisco Bay were 10,500-ton vessels. I am advised by the Maritime Administration that the recent authorization for construction of vessels under the Merchant Marine Act contemplates the building of tankers as large as 250,000 tons—20 times greater than those involved in the San Francisco collision.

We need a commitment to stop oil spills to match the size of these tankers. We have this commitment from the President. I commend Chairman Train's excellent remarks on this issue to the attention of my colleagues.

REMARKS BY THE HONORABLE RUSSELL E. TRAIN, CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY, BEFORE THE 16TH ANNUAL TANKER CONFERENCE OF THE AMERICAN PETROLEUM INSTITUTE, PONTE VEDRA BEACH, FLA.—MAY 10, 1971

I welcome this opportunity to meet with the members of the American Petroleum Institute, and particularly with those members of the industry directly concerned with the transportation of oil by sea. I am especially glad to have this opportunity to express in the strongest possible terms the determination of the United States Government to do all in its power to terminate at the earliest possible date the pollution of the seas by oil. We are committed to this goal.

From the beginning of his Administration, President Nixon has given a high priority to effective national and international action directed to protection of the marine environment. Let us make no mistake about the importance of the problem. The continued healthy functioning of the natural systems of the seas is essential to the survival of mankind.

The President devoted an entire message to the Congress last May to the problems of marine pollution. He directed our Council on Environmental Quality to study and to make recommendations with respect to ocean dumping. This we have done, resulting in the President's submission to Congress last October of an historic national policy on ocean dumping, followed this February by detailed legislative proposals which would bring all dumping off the shores of the United States under regulatory control.

Last November at the Oil Spills Conference of the NATO Committee on the Challenges of Modern Society, meeting in Brussels, Secretary of Transportation Volpe, speaking for the United States, urged an ultimate ban on all international discharges of oil. The Conference and subsequently NATO's Council of Ministers unanimously agreed to ban all international oil discharges into the oceans by 1975 if possible, but in no case no later than the end of the decade. (Other important recommendations were also made by CCMS to lessen oil pollution problems.) That was an historic decision welcomed by public opinion and by the world's press.

The President was delighted by the CCMS action and directed immediate U.S. Government action to implement the CCMS oil spills recommendations as part of his environmental program.

Early this year the President appointed me the new chairman of the U.S. delegation to the CCMS when Dr. Daniel P. Moynihan left

government to resume his duties at Harvard University. Subsequently, the President also asked me to take the lead within the U.S. Government to insure proper follow-up of the CCMS recommendations and to overview generally our on-going spill preventive programs.

The President has recognized three key points about our progress in this area: (1) We must set a high standard in our own national law and practices. (2) We must actively seek international acceptance of common ground rules to cope with discharges of oil and oil spills. (3) We must seek the help, advice and cooperation of our own industry on the subject.

On the first key point recognized by the President—setting a high standard in our own national law and practices—I can report good progress.

The Coast Guard has promulgated regulations delineating oil spill report procedures and regulations aimed at minimizing spills from oil transfer facilities. The Coast Guard will be increasing their offshore air patrols to look for spills and plans to issue regulations later this year forbidding intentional bilge discharges, except in an emergency, in U.S. navigable waters. There will be increasingly strict surveillance and enforcement off U.S. shores.

A national contingency plan for dealing with spills was published in June 1970 and regional plans are now in effect. The national plan is currently being revised to reflect the lessons learned this past year, and we hope to issue this revision next month.

Three bills designed to prevent or minimize the chance of spills are now before Congress. The bill to license towboat operators has been passed by the House and is now under consideration by the Senate. The Bridge-to-Bridge Communications Act has been considered by committees in both houses. The Ports and Waterways Safety Act has also been resubmitted to this Congress.

The Senate has scheduled hearings later this month to consider ratification of the 1969 Amendments to the 1954 Convention for Prevention of Pollution of the Sea by Oil, the 1969 IMCO Public Law Convention and the 1969 IMCO Liability Convention. We anticipate no unusual delays in action by the Senate.

In the international area we are vigorously supporting action in a number of international bodies to ensure world-wide acceptance of the NATO Recommendations. Already the U.S. and other nations (including many non-NATO nations) have agreed to make the oil spills ban by at least the end of the decade part of the work program of the International Maritime Consultative Organization and to have it as a major goal for consideration at the 1973 IMCO Conference on Ocean Pollution.

At the April CCMS plenary meeting, I reported on the U.S. Government's implementing action and other countries did likewise. Further action is expected by NATO countries in the months ahead and we plan to have a full report on governmental implementation by our fall meeting. Obviously, action by other governments will also involve foreign companies operating in this field. I hope they will prove as cooperative as our own industry in what, after all, is a common threat and a clear call for responsible action. We will press vigorously on the international level for swift action, both for internal domestic implementation and for broad-based international agreements. I'm sure these efforts will bear fruit, since the problem grows every day and our scientists are learning more all the time about the danger inherent in oil spills to ocean life.

I want to say a few words now about what the President sees as the third key point in meeting the problem of oil spills: industry cooperation. First, I would like to express my appreciation for the fine cooperation we have had from U.S. industry in this very difficult field. Before and during the CCMS Oil Spills Conference, the assistance of members of industry has been invaluable in formulating many of the key recommendations. In December, following action by NATO's Council of Ministers, a meeting was held in the White House which a number of you attended. This meeting set the stage for close and fruitful cooperation between government and industry on means to implement the U.S. international and domestic commitment to effectively prevent oil pollution in our oceans and inland waters. I want to assure you that we will continue to work closely with industry to achieve early implementation of the President's program and our international obligations in this important area.

The goal we have set is not going to be easy to achieve. There are technological problems and there are economic problems. The costs will not be insignificant. At the same time, the benefits of oil pollution prevention on the seas will be very great to all nations and all people. We are convinced that the technological problems, while difficult, can and will be solved. We are heartened by the positive spirit of cooperation of our own industry in working with our government on this common goal. We urge other nations and the tanker industry worldwide to work together in this same spirit of constructive cooperation.

I repeat that the United States is committed to achieving the goal of eliminating international discharges on the high seas by 1980. I assure you that world opinion will accept no less.

PROGRESS ON H.R. 5606

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to advise the House on the status of H.R. 5606, the Soviet Jews Relief Act. As of today, that bill has 77 cosponsors in the House and 25 in the Senate. I am appending their names.

I am also pleased to bring to the attention of the House a resolution supporting H.R. 5606, enacted by the board of directors of the Jewish Welfare Fund of Chicago. In addition. I am including the statement of an organization called Student Struggle for Soviet Jewry and the recommendations of that group on what actions American citizens can take to help the Soviet Jews now in prison and on trial. The current trial of Soviet Jews in Leningrad makes the need for this bill even more pressing.

The material follows:

HOUSE COSPONSORS OF H.R. 5606

Edward I. Koch, Herman Badillo, Louis Stokes, William F. Ryan, Donald Riegle, Bill Frenzel, James Scheuer, Phillip Burton, Robert Steele, Edward Roybal.

Robert Drinan, Lawrence Williams, Ella Grasso, Joseph Addabbo, Parren Mitchell, Donald Fraser, Gilbert Gude, George Collins, Benjamin Rosenthal, Ralph Metcalfe.

John McCollister, Bob Eckhardt, Michael Harrington, G. William Whitehurst, Don Edwards, Stewart McKinney, Jonathan Bingham, Claude Pepper, Bertram Podell, Charles Wilson.

Charles Carney, George Miller, Joe Evins, James Burke, Garner Shriver, John Culver, Frank Horton, Sherman Lloyd, John Seiberling.

Alphonzo Bell, Bella Abzug, John Buchanan, Seymour Halpern, Thomas Rees, Abner Mikva, Paul Sarbanes, Goodloe Byron, Sidney Yates, William Broomfield.

Charles Vanik, Norman Lent, Ken Hechler, Bradford Morse, Larry Winn, Edwin Forsythe, Robert Roe, Charles Whalen, James Corman, Thomas O'Neill.

Mario Biaggi, John Anderson, Frank Brasco, John Brademas, James Fulton, Peter Kyros, Brock Adams, Edith Green, John Dow.

John Dent, Paul McCloskey, Louise Day Hicks, Sam Gibbons, Dominick Daniels, R. Lawrence Coughlin, Hamilton Fish, G. Elliott Hagan, Thomas Foley.

SENATE COSPONSORS

Birch Bayh, Clifford Case, Alan Cranston, Thomas Eagleton, Lawton Chiles, Fred Harris.

Philip Hart, Harold Hughes, Hubert Humphrey, Charles Mathias, George McGovern, Walter Mondale.

Frank Moss, Robert Packwood, John Pastore, Claiborne Pell, William Proxmire, Abraham Ribicoff.

Harrison Williams, Hugh Scott, R. Schweiker, Adlai Stevenson, Robert Taft, John Tower, John Tunney.

JEWISH WELFARE FUND RESOLUTION SUPPORTING H.R. 6698

(H.R. 5606 as Amended)

Despite promises made by the Soviet government, Jews in the Soviet Union continue to be the target of persecution, and are not permitted in any significant numbers to emigrate from that country to join families abroad.

We therefore welcome the action of Congressman Edward I. Koch in introducing H.R. 6698 (H.R. 5606 as amended), the "Soviet Jews Relief Act of 1971." This bill, if enacted, would authorize the United States to issue 30,000 special visas to permit emigration of Jews from the Soviet Union to the U.S. It would underscore the traditional humanitarian attitude of the United States for refugees, and would serve as an example for action by other free nations, in addition to Israel's open door policy, thereby encouraging the Soviet Union to permit emigration of all Jews who wish to leave that country. Therefore be it

Resolved, that the Board of Directors of the Jewish Welfare Fund of Chicago declare its unanimous support of H.R. 6698. We commend Congressman Koch for his far-sighted humanitarian action and urge our Administration and representatives in the Congress of the United States to enact this Bill. We call upon our membership to express their individual support of this legislation to their elected officials.

"STOP THE TRIALS"—HERE'S HOW YOU CAN HELP

(1) Cable immediately Soviet Procurator-General Roman Rudenko, Pushkinskaya 15A, Moscow, RSFSR, USSR—"Stop the trials—Free the Prisoners—let the Jews leave."

(2) Send similar cables to Leningrad Procurator Mrs. Kotakova, Office of Procurator, Leningrad City, RSFSR, USSR; to Leningrad Mayor Sizov, 6 Isaakievskaya Ploshchad, Leningrad, RSFSR, USSR; to First Secretary Leonid Brezhnev, Kremlin, Moscow, RSFSR, USSR; and to Premier Alexi Kosygin, Kremlin, Moscow, RSFSR, USSR.

(3) If necessary, write to these individuals. Postal rates—13¢ for airletter, 25¢ per each ½ oz. for enveloped mail (same as old postal rates).

(4) Make your feelings known to your Congressman (House Office Building; Washington, D.C.); to your Senators (Senate Office Building, Washington, D.C.); and to President Nixon (White House, Washington, D.C.) Urge U.S. government intervention for the prisoners. Additionally, ask for Voice of America radio broadcasts to Russian Jews (Jewish news, culture, educational, at regularly scheduled times).

(5) Express your anger to Ambassador

Yakov Malik; Soviet U.N. Mission, 136 East 67th Street, New York, N.Y. 10021 (212–UN–1–4900) or to Ambassador Anatoly Dobrynin, Soviet Embassy, 1125 16th Street, N.W., Washington, D.C. 20036 (202–628–5588). Write or phone intelligently—do not be threatening or obscene.

(6) Write the families of the arrested Russian Jews. Send special greeting cards to activist Soviet Jews. Send Ruth Alexandrovich cards to Procurator-General Rudenko. Put up Prisoner Posters in schools, offices and synagogues. All of this above information and materials available from the Student Struggle for Soviet Jewry.

(7) The Russians are seeking to diminish Western protest by the careful timing of their trials and the control of information on the trials reaching the Western press. Attend protest meetings, take your family and friends with you, and encourage everyone to cable, write and phone. Support the Student Struggle for Soviet Jewry.

By Student Struggle for Soviet Jewry, 200 West 72nd Street/suites 30–31, New York, N.Y. 10023/212–799–8900.

HEARINGS ON THE DENIAL OF HUMAN RIGHTS TO SOVIET JEWS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today I was pleased to have the opportunity to testify before the House Foreign Affairs Subcommittee on Europe on my recent trip to the Soviet Union to discuss with individuals and officials the persecution of Soviet Jews and to investigate the plight of the 25 Jews held in prison. The chairman of the subcommittee, the gentleman from New York (Mr. ROSENTHAL) opened the hearings with an eloquent statement setting forth the case of the denial of human rights to Soviet Jews and the worldwide concern that exists over the current trial of nine Jews in Leningrad. The subcommittee was also privileged to hear from two gentlemen who are very active in the efforts to secure the rights of Jews in the Soviet Union: Rabbi Gilbert Klaperman, chairman of the New York Conference on Soviet Jewry, and Rabbi Arthur Schneier of Park East Synagogue and president of Appeal of Conscience Foundation.

At this time I would like to insert in the RECORD Chairman ROSENTHAL's statement:

STATEMENT OF CONGRESSMAN BENJAMIN S. ROSENTHAL

Millions of Jews are being held as virtual prisoners today in the Soviet Union. Their crime is the faith of their fathers. Today nine of those Jews are on trial in Leningrad for wanting to leave Russia and emigrate to Israel.

We have no way of knowing how many other Soviet Jews wish to emigrate to Israel or to the United States and elsewhere. But we do know the number is great and that as it grows, as more and more Soviet Jews seek emigration visas, more and more find themselves in Soviet jails.

And those not thrown in jail are prosecuted and persecuted in other ways. They may find themselves out of a job or demoted or subjected to other forms of retaliation.

Soviet refusals to permit international legal observers at the Leningrad trials only increases world suspicion over the validity of the charges and the fairness of the court proceedings.

World opinion has been aroused in recent months over this and previous trials of Soviet Jews seeking to go to Israel, and the Kremlin has responded with a slight increase in the trickle of Jews allowed to leave the Soviet Union.

One of the purposes of these hearings is to help understand the situation in the Soviet Union in the hopes that not only Jews but all persecuted minorities and others wishing to emigrate from the Soviet Union will be free to do so, and that those who wish to remain in the land of their birth may do so without fear and may live freely. Pertinent legislation may also suggest itself.

One of the standard principles of humanity is that persons should be allowed to come and go as they please, to live in the land of their choice.

Soviet treatment of Jews and other Russian minorities is a violation of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on December 10, 1948. It especially goes against Article 7, guaranteeing equal protection of the law to all citizens and prohibiting arbitrary arrest; Article 13, which gives "Everyone . . . the right to leave any country, including his own"; and Article 18, which says "Everyone has the right to freedom of thought, conscience and religion . . . (and) to manifest his religion in teaching, practice, worship and observance."

These are the very principles being violated today in the Soviet Union, where Jews are unable to practice their religion, read their literature, observe their ancient traditions and know the richness of the cultural heritage; where they are being arrested arbitrarily and being denied the right to emigrate to the land of their choice.

It has been 35 years since Jewish education and study was permitted in the Soviet Union. Only a tiny handful of synagogues now exist in a country of 3.5 million Jews.

The programs of the Czars have been replaced by the assimilation programs of the Soviets. The purpose is the same—to eliminate the Jews.

In our own lifetime, six million Jews were slaughtered in the worst holocaust in human history only because they were Jews. So it is that the Leningrad Nine stand in the docket for all Soviet Jews.

DEVELOPMENT OF AN ADEQUATE AND RELIABLE BULK POWER SUPPLY

(Mr. TIERNAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. TIERNAN. Mr. Speaker, as you know, the Subcommittee on Communications and Power of the Interstate and Foreign Commerce Committee, of which I am a member, is presently engaged in exhaustive hearings on powerplant siting and environmental protection. The committee hopes to report legislation which will promote the development of an adequate and reliable bulk power supply consistent with the environmental values that Congress has espoused in the National Environmental Policy Act of 1969 and others.

This is vitally important to the Nation for two reasons. First, an adequate supply of electric power is fundamental to our national welfare and to the standard of living which we have come to expect. We are faced with a demand expected to quadruple in the next two decades which the electric power industry is unable to meet reliably at the present level.

Second, an adequate supply of electric power is the key to many of our efforts to reduce and control pollution. If the electric motor is to replace the internal combustion engine and be a major source of nonpolluting power, we must have an adequate supply of electricity.

The legislation presently before our subcommittee, Mr. Speaker, is concerned with enabling the electric power industry to overcome present delays resulting from regulatory lags and environmental disputes in meeting its responsibilities for bulk power supply. But, there is a substantial body of expert opinion which says that the key to understanding the failure of the electric power industry is the structure of the industry itself. They regard a monopoly of energy sources and a profusion of power fiefdoms as antithetical to the development of an adequate and reliable supply of electric power at the lowest possible environmental cost.

Mr. Speaker, I include a recent article written on this subject by Mr. Robert Sherrill in the RECORD at this point:

[From the Playboy magazine, May 1971]

POWER PLAY: THE BRINKMANSHIP OF THE ELECTRIC COMPANIES MUST BE OPPOSED, SAYS THE AWARD-WINNING WASHINGTON JOURNALIST, WHO OFFERS A PLAN TO SOLVE THE KILOWATT CRISIS FOREVER

(By Robert Sherrill)

The most serious, immediate threat to the environment—and to the consumer's pocketbook—comes from the developing cooperation between the fuel industry and the electric-power industry. If they have their way, and there are signs that they will, then the most harmful source of air pollution will go uncontrolled, along with our most monopolistic markets. The situation has become so critical that some responsible observers are beginning to use such unkind words as conspiracy and collusion. Vermont Senator George D. Aiken, one of Congress' watchdogs of the energy industry, was not accused of hysteria when he warned that what's happening constitutes "a very serious threat to political democracy," because "when you control energy—and oil interests now control coal and are on their way to controlling nuclear fuel—then you control the nation." Of specific concern, he said, is the evidence that "there is some group determined to get control of electrical energy in this nation." That would be a natural target for any group interested in controlling all of the nation's power systems—or in chain reaction profits—because if Montana Senator Lee Metcalf knows what he's talking about, "Electric power is by far the nation's largest industry. It's growing rapidly because it has a monopoly on an essential product.

The electric utilities took the lighting business away from the gas utilities half a century ago. They appear to be on their way toward domination of the heating area as well. They are going into the real-estate and housing business in a big way. They are intertwined with the banking and insurance industries and have extraordinary force in politics, the educational system and the press." The concentration of the industry is impressive. The 212 largest private electric companies (as distinguished from public outfits like TVA, the rural electric co-ops and the municipals) are said to constitute about one eighth of all investment in U.S. industry.

And from the environmentalists' point of view, the electric utilities are of paramount concern. The coal and oil they burn produce more than 50 percent of the deadly sulphur dioxide and nearly 30 percent of the particulates in air pollution of our cities—which is why Jerome Kretchmer, the Environmental

Protection Administrator for New York City, can hardly be thought to exaggerate when he contends that "power versus the environment is the issue for the Seventies." (New York's sulphur-dioxide level is three times higher than the safe maximum set by Federal and state officials, and a heavy atmospheric inversion this summer could kick it up to a level that would kill enough people to ease the city's tight housing situation.)

Nothing unusual there. With an Amherst physicist claiming to have evidence that between 1000 and 10,000 lung-cancer deaths each year are caused by electric-power-plant emissions, and with some scientists now tentatively estimating that coal-burning power plants may be putting as much as 150 tons of the newest, hazard, mercury, into the ecosystem each year, it's hardly surprising to find that Senator Edmund Muskie and other politicians rate power pollution at the head of the list of environmental plagues.

Aside from the various chemicals and dirty solids the industry dumps on us, the face of America has been permanently multilated by 67,000 miles of extra-high-voltage transmission lines strung across 1,300,000 acres of land—and, in all likelihood, by 1990 there will be 165,000 miles of lines hanging over the land. By 1980, the generating plants will be pirating one sixth of our fresh water as a cooling agent and returning it to the streams and lakes at such a heightened temperature that fish will have to swim for their lives. Algaeic scum will follow.

This continual degradation of what was once a green and pleasant land may be halted only by a massive public confrontation. The situation, is neatly summarized by Lee C. White, former chairman of the laisse-faire fraternity, the Federal Power Commission: "It is perfectly evident that the dialog between the environmentalists and utilities is beginning to shift. The utilities are no longer being asked, "Why don't you locate your plant in a site other than the one you have selected?" The question being asked today is, "Can you justify the construction of an additional plan anywhere?"

For several years it's been plain that if the electric-utility companies were to escape stiffer regulations, they would either have to pour research money into developing more efficient and cleaner methods of production, or they would have to fight off reform by political lobbying, propaganda and threats. They chose the latter course.

Habitually, the power industry has skimped on research—even while mooching billions of dollars of Government research funds. One knowledgeable witness told the Senate Subcommittee on Fuels in 1970 that there are "only 14 Ph. D's in the entire utility industry." Expert analysists have reported that *all* power companies together spend only twenty-three hundreds of one percent of their operating revenue for R. & D. which proportionately is about one ninth what the Bell System spends for that purpose, and about one eighth as much as the utility companies lay out in advertising to persuade the consumers to use more of the power they often cannot provide.

Not wishing to break their habit of sloth, the big electric companies decided to fight reform regulations by other means. For this, they teamed up—conspired, connived, whatever word seems to fit—with the big oil, gas and coal companies. Their weapon was fear, based on disruptions of electric service.

Electricity we've got to have. In vertical cities, there is no substitute for an elevator. For the urban cave dweller, who lives in canyons no breeze ever penetrates, there is no alternative to an air conditioner. The gas furnace may compete with the coal or oil burner, but nothing competes with the light bulb.

Ever since the 1965 power disruption that plunged much of the Northeast into darkness, the residents of most of the larger urban centers of the country have been wondering when the elevators would stop again between floors. And there have been enough blackouts and brownouts—more than 50 nationwide in 1970, and a severe one in New York this past February—to keep the worry flourishing. Industry spokesmen insist that the crisis will last at least another five to ten years.

Because they peddle an absolutely essential commodity and because utilities are the only industrial monopoly protected officially by Federal and state governments, it's been quite easy for the electric-power companies to create a crisis situation in which they could successfully issue ultimatums: Let us charge the rates we want to charge; or we will permit our equipment to deteriorate and we will not develop new sources of power—so there will be critical blackouts. Let us build our power plants on the steps of city hall and string our transmission lines through national parks without protest from environmentalists, or we will permit so much of our operations to stop that normal life will be disrupted and endangered.

A contrapuntal ultimatum has come from fuel companies, which want no restrictions on their profits or on their drilling and mining operations. In the fight for profits, both groups have apparently won. The fuels that go into the production of electricity have jumped in price by as much as 130 percent in the past year. The electric-utility industry's income, which was 19.4 billion dollars for the 212 largest companies in 1968, is believed to have jumped a billion dollars a year since then. (It is difficult to be certain, for there is no central government office for collecting rate data.) But still at issue between the public and the electric moguls is the matter of environmental controls.

Utility officials are not very subtle about their threats. If environmentalists continue to interfere, says New York Consolidated Edison's chairman, Charles Luce, "eventually it will have an effect when you try to switch on the light." And a top official at Boston Edison said, "We can probably meet our demands in New England if no more states pass those anti-pollution laws." The fuel industry plans an equally obvious role in this psychological warfare. From Prudhoe Bay, Alaska, William Stief of the Scripps-Howard newspapers reports that in talking with a dozen of the nation's top oil executives, he learned that "the big oil companies are counting" on the possibility of blackouts caused by energy shortages to "brush aside objections of the highly controversial Alaskan pipeline.

When conservationists protested the proposal of some oil and gas companies to use Federal atomic devices for blowing up portions of the Rocky Mountains in their quest for 42 billion dollars' worth of new gas, Dr. Glenn T. Seaborg, chairman of the Atomic Energy Commission and a friend of the industry, warned: "Today's outcries about the environment will be nothing compared with the cries of angry citizens experiencing blackouts which could endanger the health and lives of their families."

The generator that sends electricity out one end is powered at the other by water, nuclear energy, coal, oil or natural gas. No conspiracy could depend on the first two, because water-powered generators supply 16 percent of our electricity, and at present the nuclear generators produce about two percent. The great sources are coal, oil and gas, and of these gas in the most important because it's virtually pollution-free. There is an insatiable demand for it.

And because there is such a demand, the gas producers two years ago "discovered" a shortage. Their objectives were to throw off FPC regulations, increase prices and get their hands on a larger share of the oil and gas of the outer continental shelf. Every trade magazine acknowledged that if gas prices were raised, the "shortage" would evaporate *Business Week* flatly stated that the industry was shooting for a 60 percent price increase. Others estimated a 100 percent boost. Charles F. Wheatley, Jr., general manager of the American Public Gas Association (which is run by municipal gas distributors, at the other end of the commercial spectrum from Shell, Gulf and the rest, and is the most consumer-oriented sector of the industry), noted with apparent sarcasm that "the timing of the present asserted gas shortage is quite interesting," because the industry's chief lobbyist for a rate increase "has stated that he did not realize until late in 1968 or 1969 that there was any real gas shortage." Strange. Wheatley's suspicision were heightened by the remembrance that, though 1954 had been a banner year for drilling, "A similar [shortage] claim was made in 1955 when the industry sought passage of legislation to exempt producers from FPC regulation."

Many observers are convinced that the gas companies have plenty of reserves to meet the nation's needs but have simply capped the wells to await higher prices. Dr. Bruce Netschert, an economist with National Economic Research Associates, claims that 500 gas wells in the outer continental shelf off Louisiana have been capped. Michigan Senator Philip Hart, whose Antitrust and Monopoly Subcommittee has been investigating gas prices, says that Louisiana officials "have found 1100 gas wells shut in, mostly waiting for higher wellhead prices."

Gas prices are supposedly set by the FPC according to supply. But this is pretty much a farce, since the official supply is determined in secret session by the American Gas Association—a group of so-called competitors—who have consistently refused to disclose their records to the FPC. In other words, the FPC simply takes industry's word and is happy to do so. Says John Flynn, special counsel on the Senate Antitrust Subcommittee: "The way gas reserves are predicted through the A.G.A. is a serious antitrust question. It is a possible device for price-fixing."

What are the stakes? Joseph C. Swidler, chairman of the New York Public Service Commission, puts it this way: "There are probably some 1500 trillion cubic feet of gas in our underground resources. Each cent [increase on the price] per 1000 cubic feet thus represents 15 billion dollars for the consuming public." That's 15 billion dollars for a one-cent increase, yet, according to Flynn, "The FPC has been talking in terms of an 8- or 10-cent increase and industry wants 14 or 15 cents more."

Another assault on the consumer's peace of mind and pocketbook came via the marketers of residual fuel oil, which fires the furnaces that turn the generators that produce more than 90 percent of the electricity in the Northeast; oil figures heavily in electricity production in other areas as well, such as Florida. These days, residual oil is selling for twice the price it fetched a year ago. Industry spokesmen insist the oil is scarce for several reasons: Libya cut back on production. The big trans-Arabian pipeline has not been repaired since it was ruptured in Syria last year. There is a severe tanker shortage.

U.S. Congressman Silvio Conte, at hearings before the Subcommittee on Special Small Business Problems, got to mulling over those excuses and began to suspect that somebody was lying. The oil industry had begun complaining about a "shortage" and had started pushing up its prices in April 1970, but, said Conte, "The pipeline didn't break until May 3, 1970, and the Libyan cutback occurred sometime thereafter." Furthermore, the pipeline was shut down for 100 days during 1969, yet there was no claim of a shortage or any increase in prices that year.

And finally, "Only about three percent of our [residual] oil is imported from the Middle East. The remaining 97 percent comes from Venezuela, Canada and our own domestic markets." And if Libya was curtailing production, wouldn't this free tankers for the Venezuelan run?

Putting it all together, Conte concluded: "The price had gone up by such a huge amount—in some cases as much as 130 percent on the East Coast—because, I felt, there was a conspiracy among the domestic oil companies, the producers, in making this oil scarce, so that the price could be increased. . . . Let me put it this way. It is either a conspiracy or a gross miscalculation by the oil companies. And I can't believe that the oil companies would miscalculate the situation, because they certainly have the finest backup force of any industry in the world, and they very, very seldom make a miscalculation."

Coincidentally with all that came a startling "scarcity" of coal and a sudden increase in its price. There were, as usual, suspicions of collusion, but nothing was done about it. Senator Hart acknowledged that testimony before his subcommittee raised serious questions as to "whether there has been a deliberate withholding of coal from the market place."

The railroad companies were doing their share by creating a shortage of coal cars. Many cars were allowed to stand idle rather than be used to deliver coal to the power plants. Everything was screwed up: One trainload of coal bound for New England stopped short and returned to the mine; rail officials claimed the rerouting was a computer mistake. And delivery of coal was sometimes delayed because the rail lines have allowed much of their equipment, including roadbeds, to deteriorate.

It was easy to contrive these shortages because ownerships of the different fuel industries are tightly interwoven. Within the past five years, eight of the ten largest coal-mining companies, which produce half the coal in the U.S., have been purchased either by oil companies or by mineral companies or other large "energy" corporations. Since the oil companies control natural-gas production, and since they also control 45 percent or more of the known U.S. uranium reserves, which of course gives them dominance over nuclear power, the production of electricity is pretty much a matter of their whim. Clearly, control of supplies and prices is in capable hands.

So critical is this threat of fuel monopoly that it has overshadowed other monopolistic trends. Too little attention has been paid, for example, to the interlocking banking relationships of the various industries that support the electric utilities. A House Banking Committee study shows that the 49 largest banks hold interlocking directorates with 36 of the largest electric companies, 28 gas companies, 15 coal-mining companies, 17 petroleum companies, 58 coal-carrying railroads, one oil-pipeline company and 27 companies supplying electrical transmission and distribution equipment.

The Mellon National Bank & Trust Company, for example, which holds 52 percent of all bank deposits in the Pittsburgh area, has three interlocks with the Consolidation Coal Company; a total of six interlocks with General Electric, Westinghouse and H. K. Porter, all suppliers of electric-transmission, lighting and wiring equipment; a total of five interlocks with the Penn Central, Pittsburgh and Lake Erie, Cleveland & Pittsburgh and Pittsburgh, Fort Wayne & Chicago railroads; four interlocks with the Gulf Oil Corporation; and a total of seven interlocking directorates with the Pennsylvania Power and Light Company, the Duquesne Light Company and the Monongahela Power Company of Ohio. All the biggest banks can show similar ties.

The point to keep in mind is that while a fuel monopoly can afflict our pocketbooks and our blood pressure, the linchpin that holds the over-all power conspiracy together and guarantees maximum profits for all concerned is the private electric-power monopoly. There are 40,000,000 households that use gas, but if the only issue were higher gas prices or a gas shortage, they could switch to other fuels—sometimes at great expense. If the only issue were higher coal prices or a coal shortage, the switch could be made to oil or gas. And if the developing oil-gas-coal monopoly made switching meaningless, the consumers could still fight it out without feeling panic, except that oil-gas-coal is electricity, and there is no switching from that.

Having passed through the panic factory, we come back to the simple, aggravating truth: There is no electricity shortage. In some densely populated areas, yes, there are shortages as the result of industry backwardness. But nationally there is no shortage, and the only problem is how to spread the existing power around.

Obviously, this is something the industry does not exactly like to have publicized. I believe I have read every important article on the power crisis printed during the past two years. Yet I cannot recall ever seeing anyone mention what Federal Power Commission chairman John N. Nassikas admitted in Congressional testimony just before 1970's winter demands set in that "the net dependable capacity of the 48 contiguous states is 326,667 megawatts, with an estimated peak demand of 257,419 megawatts." That leaves a reserve capacity—or surplus—of 27 percent, and "reserves of 15 to 20 percent are generally considered normal to guard against unexpected equipment failures and higher peak loads than predicted."

It would appear, then, that present concepts of "need" are cockeyed. The idea that New York City "needs" to build more generating facilities in Queens; or that the Los Angeles area "needs" a power plant at Malibu to continue the devastation of the beach already begun in that way at Playa del Rey, El Segundo, Redondo Beach, Alamitos Bay and Huntington Beach; or that the Chicago area "needs" more generating facilities along the Lake Michigan shore—solutions like these, with transmission technology being what it is today, are about as scientifically defensible as rubbing the scalp with parsley to cure baldness.

William E. Warne, a West Coast water-resources and energy consultant, voices from expertise what the local residents know from common sense: "[In such megalop olises as] Washington to Boston . . . San Diego to Santa Barbara . . . around southern Lake Michigan and elsewhere . . . there are not now, and are not going to be later, places for twice as many power plants by 1980 or seven times as many by 2000"—as the electricity demands would seem to dictate building. "New York City simply cannot accommodate in its environs a multiplication of generating stations."

The best and easiest way to avoid new stations is to establish a national transmission grid. This is the only way to take advantage of the national electricity surplus, tying together all major sources of power production and power consumption. There are already regional grids and even a few important interregional grids, especially in the Far West; but these are not sufficient, as the experiences of the past few years clearly show. The national transmission picture is, as one Senate aide described it, "Like an interstate highway interspersed with gravel roads, detours and a few unbuilt bridges."

The idea of a national grid was first seriously proposed in the Thirties, but the private power lobby has always managed to prevent it from becoming a reality. Senator Muskie rightly blames the FPC for its failure to "face up to the needs for a national power network. We know how to build and regulate broadcast network, sports networks, merchandising networks, food-distribution networks—but not a power network. And now we end up having hundreds of thousands of kilowatts of power unable to reach New York in an emergency because the necessary transmission lines have not been built." Yet for at least 15 years we have had the long-line transmission techniques to do the job.

If there are only two electric systems interconnected and one system loses 25 percent of its generating capacity because a turbine goes out, chances are that the combined systems will not have enough generating reserves to make up the deficiency. The result: blackouts, or at least brownouts. New York is supposedly backed up by the Pennsylvania-New Jersey-Maryland (P-J-M) Interconnection, but at the most crucial point in the summer of 1970 the backup P-J-M was itself riddled with so many problems that one fourth of its generating capacity was out of action. There were boiler explosions, boiler-tube ruptures (seven in all), an explosion in a pulverizer mill, a kinked turbine spindle and more. The situation was a total mess. The manufacturers of electric-power-plant equipment almost seem to be involved in a conspiracy of their own, for when they are not delivering needed equipment months late, what they are delivering is so shoddily made that it can almost be guaranteed to break down.

However, if you interconnect all the major systems, the combined spinning reserve would take care of any emergency. And if the country were tied together from coast to coast, there would be other great advantages resulting from the time and weather differentials. A summer evening's peak usage in New York puts a strain on Consolidated Edison's creaky equipment; but the West Coast, three hours behind, has not yet reached its peak usage and could bump surplus power to New York. Most power systems in the country are overloaded in summer because of air conditioning; some, such as the Pacific Northwest, have a winter peak and a summer surplus. These various systems could bump their seasonal surpluses around the country to meet demands eleswhere.

Much of a company's equipment can earn money only during peak-use periods, which is why the electric giants are so slow about buying needed equipment. With a national grid, this wasted capital outlay could be avoided.

The national grid would also be a way to achieve almost immediate relief from air pollution. Given a serious atmospheric inversion that traps dangerous levels of a utility's crud in the urban air, the company could simply shut down its generators and import the power it needs from systems in other parts of the country.

Not only is construction of the national grid possible; it could also be built quite swiftly and, as utility-equipment costs go, relatively cheaper. Robert O. Marritz, executive director of the Missouri Basin Systems Group, says that it would probably take no more than 1.6 billion dollars to build a grid with the main direct-current transmission lines running from the Pacific Northwest through the Wyoming-Montana coal fields to Chicago and then to New York, and the southern line running from Los Angeles to Four Corners (Arizona, Colorado, New Mexico and Utah), which already has a big generating complex, through the Little Rock area to the TVA and then north to New York. (The stringing of these long lines, incidentally, will of course ultimately reduce the need for additional regional lines.) The grid could be built, Marritz believes, in three years—compared with the minimum of five years needed to build a new power plant that essentially has only local usefulness.

We asked Kenneth Holum, who was assistant Interior Secretary for Water and Power

Development for eight years under Kennedy and Johnson, if he agreed. He said he thought Marritz might be optimistic on the time needed to build a transmission system. Holum talks in terms of five or six years, but he conceded "Marritz is an engineer and I'm not."

Marritz is also more optimistic on the impact. With a national grid, he said, there would be no more blackouts or power shortages for decades, if just a moderately reasonable plant-construction program went along with it. Holum balked at predicting "no" blackouts or shortages, but he agreed that their possibility would be "exceedingly remote." On that, most experts would agree. So why hasn't the grid been built? That question cannot be answered fully without illustrating the atmosphere of the answer. On April 8, 1970, in a hearing before a Senate subcommittee, then—Interior Secretary Walter J. Hickel said something that would have been unusual for a Democratic Cabinet official but was downright spectacular for a Nixon appointee: "I think we need a national grid system." Hickel went on talking that way, and indicated that he wanted to be encouraged to say more. After the hearing he told reporters, "Some people think it's socialism, but it isn't."

Indeed, some people do think it is socialism. And some who think so were working within shouting distance of Hickel. Rumor has it that as soon as word of Hickel's heresy got back to the Interior Department, his Assistant Secretary for Water and Power Development, James R. Smith (who came to Washington from an executive post with the Northern Natural Gas Company of Omaha), hurriedly called together everyone at the policy level and assured them that Hickel hadn't really meant it—but if he had meant it, he, James R. Smith, friend of private enterprise, intended to resign. Some in the power industry believe Hickel's remark on the national grid helped bring about his downfall, but this may be a parochial suspicion.

Most private power executives hate and fear the idea of a national grid. When blackouts and brownouts struck the East Coast in the late summer of 1970, emergency supplies were wheeled into the New York area from as far away as the Tennessee Valley Authority. This leaning on the TVA—still a bête noire to the private power men—and the success of long-distance transmission caused deep concern among those who dread the national-grid specter. The PR offices of the major utilities began putting together anti-grid material, just in case.

There are several reasons for this opposition, aside from the fact that leaders of the private power industry simply don't like change. As we have already shown, there are tremendous profits in isolation. Most state regulatory bodies have so many other duties—overseeing road transport, railroads, elevators, phone companies, weighing stations—and have so few trained personnel that they couldn't regulate the power companies even if they wanted to. Texas has pushed isolation to the ultimate, refusing to have any interstate power ties, so that it is not subject to any supervision from the Federal Power Commission—and there is no state agency that regulates electric rates in Texas. As long as the enormously complex utility industry keeps its activities chopped up into fiefdoms, realistic regulation is bound to be impractical.

But there are other major reasons why the grid is opposed. If the nation were tied together in this way, the resources of the West would have to be acknowledged and—given a reasonable degree of public pressure—utilized, which would further explode the "fuel shortage" myth. One of the great, untapped sources of power in the U.S. is subterranean steam. If the steam trapped under the earth's crust—mostly in the West—were put to work turning turbines and generators, we would have an almost endless supply of electricity. Italy, Japan, New Zealand and Russia, among other countries, have been using steam to generate electricity on a massive scale for years.

Since 1960, geothermal energy has actually been turning generators in California and is so efficient a source that oil companies—Union and Standard and others—have been buying into the action all over California and Nevada. Some experts believe that there is enough reachable geothermal energy under California's Imperial Valley alone to meet the electricity needs of 20,000,000 people for decades at least. The important things about it are that it's cheaper than any power except hydroelectric, it does not incur the risks of nuclear installations, and it is nonpolluting.

Also looking West: Of the nation's 130,000,000 kilowatts of undeveloped hydroelectric power, 108,000,000 kilowatts are in that region, according to the Federal Power Commission; this is impressive even as a fraction of the present total generating capacity of the nation (about 300,000,000 kilowatts), and downright overwhelming, when one considers that it is about 13 times the power needed at the peak hour in New York City.

More to the immediate point, the West has immense reserves of fossil fuel. Never mind the shale-oil potential. Production methods for it are still too iffy. But one can speak practically of coal. It's there, it's easy to get at, it's relatively free of the kind of sulphur that pollutes the air. Sixty-four percent of the nation's low-sulphur coal is in the West, and only four percent of it is being mined.

The excitement that Western coal generates in some people can be detected from the claims of Senator Metcalf that "Montana coal has something like 100 times the energy source that the East Texas oil fields have. We can provide energy for America, all the energy, out of the coal fields of Montana for the next hundred years. We have that potentiality. In North Dakota and Wyoming it's the same. We could build up a mine-mouth power complex out there and set up transmission lines, and we could literally light America from Maine to Los Angeles."

Virtually all of the Western coal would have to be strip-mined, however, and there is nothing in the Western air that reforms corporations. There is no reason to expect Humble Oil, for example, to operate with more environmental decency when strip-mining its vast coal holdings in the West than its corporate brothers have shown in strip-mining the Eastern fields.

But even if conservation guarantees could be worked out, there is no assurance that full utilization of the Western sources of geothermal energy, hydroelectric power and coal would come about easily, because the Eastern establishment might not want to cooperate.

What has New York got to do with the development and transmission of power in the West? The answer to that touches one of the primary hang-ups in trying to establish the national grid. The big corporate guns of New York, who have helped create a situation of chronic crisis from which to draw maximum profit, dominate the national picture. Senator Aiken last year urged Congressional investigators to look into New England, where private utilities—which charge the highest rates in the nation—recently spent half a million dollars in a lobbying campaign to kill a public power project. "The interlocking directorships and the deals between various executives might provide some exciting antitrust material," he said. "It might also be well to take a very special look at the financing structure in control of this New England combine. It might be shown that scarcely a kilowatt can move in New England without the approval of a Wall Street investment firm."

Somewhat the same thing might be said about the West. A recent study of ten of the big private utilities in the West, selected at random from stock-ownership reports filed with the FPC, showed that a majority of the ten largest stockholders of each company were headquartered either in New York or Boston.

If we, as a nation of consumers, should ever manage to construct a national grid, we would have, in a sense, achieved industrial fission. Like nuclear fission, the achievement could become a force for either good or evil. It will be a most potent force for good if the high-voltage transmission lines that tie the nation together are owned and controlled by the Government and, like highways, available to any private or public utility company that wishes to use them. On the other hand, if the Government does not retain control over the national grid, it could become the most oppressive weapon ever offered a monopoly industry—in this case a monopoly interest that is becoming increasingly concentrated.

There were 1060 private utility corporations in 1945. Today there are 267. Serving as the best balance we have to the private companies are the 2010 public and 921 rural electric co-op systems. But if the national grid's transmission lines fell into the hands of the private utilities, they would doubtless bring the public systems under their domination even more than they have today. As it is, many of the public systems that must buy power from the privates are getting short shrift.

A memorandum uncovered accidentally in the summer of 1970 at a hearing before the Securities and Exchange Commission told of a two-day meeting in January 1963 at which 100 executives representing 66 private power companies got together in a Clayton, Missouri, motel to exchange advice and experiences on how to kill municipal and co-op electric systems. A leading role was taken by executives of the Edison Electric Institute, the private utilities' trade association. The good soldiers of capitalism discussed such tactics as refusing to sell power at wholesale prices to municipal power companies; lending money to communities with municipal plants, and then putting the squeeze on them; and refusing to let public utility companies come into pooling and joint power supply arrangements.

This cutthroat attitude on the part of private utilities is not at all unusual. Arthur Jones, president of the Basin Electric Power Cooperative in Bismarck, North Dakota, one of the more aggressive populist outfits of the Midwest, says that if consumer-owned and public systems don't get to participate actively in the planning *and ownership* of the huge regional and interregional grids which are coming, "the people's basic electric-power supply eventually will be dominated by those few utilities that can manage to finance very large facilities.

"Domination of an electric grid by a few utilities and the domination of essential-fuel supplies by a few oil companies [will mean] price-fixing at the expense of the consumer and political control by large corporations."

He could have made that much stronger and still have been accurate. Price-fixing is achievable without the grid. With a private grid, what can't they fix? The monopoly of the telephone by A.T. & T. has been with us for years. The monopoly of the energy industry by a dozen major oil companies has been apparent, if less visible, for several years. If the national grid, which is surely inevitable, gets into the hands of the major electric companies, then the monopolistic control of all industrial essentials will have gone too far to reverse. On the other hand,

if the people, through their Government, own and control the grid, industry may at least be stalemated in its bid for a strangle hold on both the sources and transmitters of electric power.

CURRENT'S FUTURE: A REALISTIC APPRAISAL OF THE POSSIBILITIES FOR POWER WITHOUT POLLUTION

The power lines you see stretching off at angles to the roads you drive, looping across the countryside, their sagging folds supported by huge steel towers evenly spaced through right of ways cut out of farmland and woods, carry millions of watts of electricity—but not enough, it seems. And demands on the cumbersome system that sends current through these slender conduits will double in ten years. Present technology will be inadequate for two reasons: the finite quantity of resources (coal, water, U–235) and the technological inefficiencies that are built into the production processes—wastefulness that turns up as pollution. The scientific problem is basic enough: Find a means of converting an available energy source into usable electrical power without discharging even more heat or soot into the sorely abused environment.

The sun is one such source of energy, available—given the variables of weather and smog—for conversion. Solar energy is, in fact, already being converted into limited quantities of usable electricity—in the space program especially. Electrical power from solar cells could keep the Russian moon vehicle, Lunokhod I, lumbering across the lunar surface indefinitely, or until the Soviets lose interest. Some ambitious planners have suggested converting 300 square miles of reliably dry and sunny desert into a solar-energy collector. A more grandiose alternative would be to send huge collectors—squares some five miles across—into orbit around the earth, where, free of the vicissitudes of climate, they would concentrate sunlight and send it via microwave to receiving grids on earth, where it would be converted into electricity. Microwaves, however, are rather inefficient conductors; an even more visionary solution might be laser beams. The science is, in both cases, sound, but the engineering techniques have yet to be perfected and would be staggeringly expensive. The size of the machinery that would be required to harness terrestrial energy sources, the winds and the tides, is equally awesome and improbable. And the machinery would desecrate the landscape. Hopefully, there is still time to consider aesthetics.

Magnetohydrodynamics may be a winner. MHD eliminates the ponderous machinery upon which present generating systems depend by sending conductive gases under pressure and at superheated temperatures—4000 to 5000 degrees—through an electromagnetic field, thereby generating a current (a principle discovered by Michael Faraday in 1831). The greatest advantage of MHD is that it involves one energy transformation rather than the three (fuel to heat, water to steam, steam to rotary motion of conductors in a field) now required. The simplification translates into an efficiency level of 60 to 70 percent, compared with the 30 to 40 of existing plants. There is still the problem of resource availability (something has to heat up those gases), but MHD represents a significant advance, although, at present, there are no operating plants.

One method of eliminating the plunder done to natural resources may be breeder reactors. Unlike the nuclear-power plants now in operation, they do not just burn up fuel but manufacture one fissionable material while consuming another. The scarcity of U–235, which the present nonbreeders use as fuel, makes development of economical reactors mandatory, and work is going ahead smoothly. A few breeder plants will be operational in about ten years. In both types of nuclear plants, nuclear power is used to make the steam that drives old-style turbines; that is, as a substitute for fossil fuels. The only problem this substitution solves is that of air pollution. There is no smoke. But the efficiency of energy conversion is actually lower than in conventional plants (30 percent *vs.* a still dim 40). The waste is in the form of heat: thermal pollution. If the entire national demand for electricity projected for the year 2000 were met by nuclear plants, approximately one third of the daily fresh-water runoff in the U.S. would be required as a coolant. A nuclear source linked to MHD mechanics would streamline the operation and eliminate a lot of that excess heat, but the most troublesome and dangerous by-product of nuclear fission—radioactive waste—would still be around.

There is another nuclear alternative; one that could be the perfect solution to the power problem. It is fusion, a process that charged hydrogen particles undergo in very special high-heat, high-pressure situations—something close to the core of the universe. The sun and the hydrogen bomb are brought to you through the courtesy of fusion. When scientists first set out in pursuit of fusion, they called the effort Project Sherwood, because—one story has it—someone answered the question "Wouldn't it be nice if we could achieve fusion?" with a happy "It sure would." The first experimental reactor was called a *perhapsatron*. The early, lighthearted efforts began to yield results and the United States, Great Britain and the Soviet Union jointly declassified their research and pooled resources. This unusual and hopeful cooperation bore fruit, and physicists now believe they can make controlled nuclear fusion, the ultimate and perfect energy source, into something you will someday thank for your warm apartment and well-lit city.

A sustained fusion reaction depends on many factors. At the tremendous temperatures involved, materials assume properties that are so elusive that scientists have to refer to a fourth state of matter and call it plasma. A sustained reaction depends on the confinement of this plasma. Gravity does this job for the sun; physicists use electromagnetic bottles. Until recently, plasma could be magnetically contained only for a few split seconds and at a density far below the level required for successful fusion. One researcher, David Bohm, estimated the minimum time necessary, and from then on, the problem became beating Bohm's theoretical time. The Soviets have come close and convinced most skeptics that there are no barriers to creating a sustained fusion reaction.

Once this is accomplished, a powerful and clean (relative to present fission techniques) energy source will be available. The original plan was to use the high-temperature reaction to heat a core that would transmit its energy to conventional generating machinery. Now scientists believe they may be able to take the high-speed charged particles from the reaction and convert them directly into electricity, thus breaking through the limits of machine efficiency and heat tolerance.

Fusion plants, once they become available, can be safely located near or in cities. The heat generated by such plants would be used to warm homes or offices—or even cool them, using essentially the same technique that makes refrigerators work on a gas flame. There would be enough surplus heat after that to distill and purify sea water and sewage. Finally, the in-city fusion plant could operate a fusion torch to solve the nastiest of environmental problems: garbage. The fusion torch, burning at its incredible temperatures, will break refuse down into its original elements for recycling.

Breath-taking as all this is, there are doubters: very crucial doubters who are funding research into controlled fusion with exceeding parsimony. The United States currently spends $30,000,000 annually on fusion research. That is roughly one percent of the space budget. However, economics may, paradoxically, be the salvation of fusion-generated power. The engineering requirements for fusion plants are tremendous and expensive; fission would be the bookkeeper's choice at this time. But fission plants, because of their danger and adverse effects on the environment, must be located far away from populated areas. Their remote siting increases the cost of transmitting and distributing the electricity they generate. A fusion plant, close to or in the city, could drive this expense way down. This savings may be the decisive factor when the power companies sit to consider the merits of fusion *vs.* fission.

It's all remote, but there is a long list of breakthroughs that have occurred in this century, of visions made into reality. Another factory sitting in the middle of your town may not sound like an exciting prospect, even if that plant heats your house, purifies your water, runs your record player and disposes of your garbage. But there is something else to consider. If fusion can do all the things it advocates claim it can, there won't be as many of those looming, stressed-steel towers running monotonously in all directions, holding up power lines. There won't be as much goop in the air, either.

A BALANCED TRANSPORTATION SYSTEM

(Mr. BLATNIK asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BLATNIK. Mr. Speaker, in my years on the Public Works Committee, I have been primarily involved in the economic development activities, water pollution, rivers and harbors, and the investigating aspects of the highway program. I have naturally also been involved in the total highway program but not nearly to the extent obviously as the gentleman from Illinois, the chairman of the Subcommittee on Roads (Mr. KLUCZYNSKI), and some of the other Members who have been more closely associated with the highway programs across the country.

One thing I can assure this Congress, however, with respect to the Committee on Public Works, is that it is unanimously in favor of a balanced transportation system in all of our cities and in the Nation itself.

We have recently ordered reported a bill to allow wider buses to operate on the Interstate System. These buses are already operating in our cities. The 1970 Highway Act made provision for the use of highway money with respect to public transportation under certain conditions and already there are projects being proposed in this category.

With respect to the situation in the District of Columbia that we are faced with here today, the committee's feeling is the same. As part of the Interstate System, and the Interstate System alone, the committee handled legislation in 1968 and 1970. There was no question in anyone's mind that this was a part of a balanced system of transportation which included an extensive rail rapid transportation system for the entire metropolitan area. Some of the highway and transit projects are so allied that money from each program is combined to finance individual projects such as the Taylor Street Bridge which will be opened next month. Also they sometimes traverse practically the same right-of-

way so that complete coordination between the systems is necessary.

There have been problems which have arisen with respect to the highway program. These problems are complicated. They involve the courts, they involve the proper procedures to process the highway projects, and they involve decisions between the District government, the Department of Transportation, the Department of the Interior, and other entities.

I have become somewhat more familiar with this problem during these past few weeks.

I intend to follow up on this situation personally and have already begun to do so, working with the key members of the Appropriations Committee, the Department of Transportation, and the District of Columbia government wherever necessary. This impasse must be resolved and resolved rapidly, and I am hopefully confident that this will be achieved, given the cooperation of those officials in the responsible positions where the necessary decisions must be made.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MATHIAS of California (at the request of Mr. GERALD R. FORD), on account of official business.

Mr. RAILSBACK (at the request of Mr. GERALD R. FORD), on account of official business.

Mr. KEMP (at the request of Mr. GERALD R. FORD), for today, on account of official business.

Mr. CORMAN, for today, on account of official business.

Mr. GALIFIANAKIS (at the request of Mr. WAGGONNER), for today, on account of official business.

Mr. RUNNELS (at the request of Mr. CAREY of New York), for week of May 17, 1971, on account of illness.

Mr. HORTON (at the request of Mr. GERALD R. FORD), for today, on account of official business.

Mrs. GREEN of Oregon (at the request of Mr. ULLMAN), for Monday through Wednesday of this week, on account of official business.

Mr. HOLIFIELD (at the request of Mr. Moss), for Monday, May 17, 1971, on account of official business.

Mr. DENT (at the request of Mr. BOGGS), for Monday, May 17, through Thursday, May 20, on account of illness.

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. SPENCE) to revise and extend their remarks and include extraneous material:)

Mr. HOGAN, for 20 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. MORSE, for 5 minutes, today.

(The following Members (at the request of Mr. DAVIS of South Carolina) to revise and extend their remarks and include extraneous material:)

Mr. RODINO, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 10 minutes, today.

Mr. CELLER, for 15 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. ROSENTHAL, for 20 minutes, today.

Mr. SMITH of Iowa, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DONOHUE, to revise and extend his remarks on H.R. 7616 and H.R. 7614.

Mr. FISHER, to revise and extend his remarks on H.R. 7614.

Mr. SAYLOR (at the request of Mr. ASPINALL), during consideration of H.R. 6993 on the Consent Calendar today.

Mr. FASCELL, and to include extraneous matter.

(The following Members (at the request of Mr. SPENCE) and to include extraneous matter:)

Mr. HASTINGS.
Mr. HUNT.
Mr. DUPONT.
Mr. STAFFORD.
Mr. MCKINNEY.
Mr. DERWINSKI in three instances.
Mr. GROSS.
Mr. RIEGLE.
Mr. SPENCE.
Mr. HOSMER in three instances.
Mr. SHRIVER.
Mr. SMITH of New York.
Mr. MORSE.
Mr. BRAY in three instances.
Mr. SCHMITZ in three instances.
Mr. LLOYD.
Mr. WYMAN in two instances.
Mr. FRENZEL.
Mr. CONTE.
Mr. MICHEL.
Mr. ANDERSON of Illinois in two instances.
Mr. VEYSEY.
Mr. RUTH in five instances.
Mr. MILLER of Ohio.
Mr. COLLINS of Texas in five instances.
Mr. NELSEN.
Mr. SNYDER in two instances.

(The following Members (at the request of Mr. DAVIS of South Carolina) and to include extraneous material:)

Mr. HAMILTON.
Mr. LONG of Maryland in two instances.
Mr. MCFALL.
Mr. FRASER in two instances.
Mr. EILBERG.
Mr. JACOBS in three instances.
Mr. ANDERSON of California in two instances.
My BYRON in 10 instances.
Mr. MOLLOHAN in five instances.
Mr. HARRINGTON in two instances.
Mr. ROONEY of New York.
Mr. ASHLEY in two instances.
Mr. FASCELL.
Mr. HÉBERT in two instances.
Mrs. ABZUG in three instances.
Mr. HELSTOSKI in two instances.
Mr. BOLAND.
Mr. KLUCZYNSKI in five instances.
Mr. GONZALEZ in three instances.
Mr. HAGAN in three instances.
Mr. MINISH.
Mr. BRADEMAS in six instances.
Mr. BURKE of Massachusetts in two instances.
Mr. DANIELSON.
Mr. RODINO in three instances.
Mr. ECKHARDT.
Mr. MATSUNAGA in two instances.
Mr. BADILLO.
Mr. EDWARDS of California in three instances.
Mr. PUCINSKI in six instances.
Mr. FOLEY.
Mr. KARTH.
Mr. HATHAWAY.
Mrs. CHISHOLM.
Mr. GRIFFIN in two instances.
Mr. EVANS of Colorado.
Mr. FUQUA.
Mr. JONES of North Carolina.
Mr. EVINS of Tennessee in three instances.
Mr. CHAPPELL in two instances.
Mr. VANIK in two instances.
Mr. RYAN in three instances.
Mr. WOLFF in two instances.
Mr. PEPPER.
Mr. MIKVA in eight instances.
Mr. J. WILLIAM STANTON.

(The following Member (at the request of Mr. MIZELL) and to include extraneous matter:)

Mr. HALPERN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1700. An act to amend section 14(b) of the Federal Reserve Act, as amended, to extend for two years the authority of Federal Reserve banks to purchase United States obligations directly from the Treasury; to the Committee on Banks and Currency.

ADJOURNMENT

Mr. DAVIS of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Tuesday, May 18, 1971, 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:

718. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of various transfers of amounts appropriated to the Department of Defense in its 1971 appropriation act, pursuant to section 836 of the act; to the Committee on Appropriations.

719. A letter from the Commissioner of the District of Columbia, transmitting a draft of proposed legislation to authorize the District of Columbia to enter into the interstate compact on mental health; to the Committee on the District of Columbia.

720. A letter from the Commissioner of the District of Columbia, transmitting a draft of proposed legislation relating to educational personnel in the District of Columbia; to the Committee on the District of Columbia.

721. A letter from the Assistant Secretary of the Interior, transmitting the Second Annual Report of the Government Comptroller for Guam for fiscal year 1970, pursuant to Public Law 90-497; to the Committee on Interior and Insular Affairs.

722. A letter from the Chairman, Indian Claims Commission, transmitting a report on the final conclusion of judicial proceedings in docket No. 125. *The Snohomish Tribe of Indians, Plaintiff,* v. *The United States of America, Defendant,* pursuant to 60 Stat. 1055; to the Committee on Interior and Insular Affairs.

723. A letter from the Chairman, Indian Claims Commission, transmitting a report of the Commission's final determination in docket No. 290, *The Oneida Tribe of Indians of Wisconsin for Itself and on Behalf of the First Christian and Orchard Parties of Oneida Indians, Plaintiffs,* v. *The United States of America, Defendant,* pursuant to 60 Stat. 1055; to the Committee on Interior and Insular Affairs.

724. A letter from the Chairman, Indian Claims Commission, transmitting a report of the Commission's final determination in docket No. 87, *The Northern Paiute Nation, et al., Plaintiffs,* v. *The United States of America, Defendant* (Snake-Paiute tract claim), pursuant to 60 Stat. 1055; to the Committee on Interior and Insular Affairs.

725. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to provide for a temporary prohibition of strikes or lockouts with respect to the current railway labor-management dispute; to the Committee on Interstate and Foreign Commerce.

726. A letter from the Chairman, National Transportation Safety Board, Department of Transportation, transmitting the annual report of the Board for 1970, pursuant to 49 U.S.C. 1654(g); to the Committee on Interstate and Foreign Commerce.

727. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Bail Reform Act of 1966 to provide for pretrial detention of dangerous persons charged with dangerous or organized crime acts; to the Committee on the Judiciary.

728. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Bail Reform Act of 1966 to authorize consideration of danger to the community in setting conditions of release, to authorize revocation of pretrial release for persons who violate their release conditions, intimidate witnesses or jurors, or commit new offenses, and for other purposes; to the Committee on the Judiciary.

729. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to broaden the authority of the secretaries of the military departments to settle certain admiralty claims administratively, and for other purposes; to the Committee on the Judiciary.

730. A letter from the Postmaster General, transmitting a draft of proposed legislation to curtail the mailing of certain articles which present a hazard to postal employees or mail processing machines by imposing restrictions on certain advertising and promotional matter in the mails, and for other purposes; to the Committee on the Judiciary.

731. A letter from the Tulsa regional solicitor, U.S. Department of the Interior, transmitting a copy of the decision on appeal in the matter of the heirship determination of Elizabeth Datcherute, deceased halfbreed Kaw allottee (KA–15–1), pursuant to Private Law 90–318; to the Committee on the Judiciary.

732. A letter from the Tulsa regional solicitor, U.S. Department of the Interior, transmitting a copy of the decision on appeal in the matter of the heirship determination of William Rodgers, deceased halfbreed Kaw allottee (KA–17–1) and the decision on appeal in the matter of the heirship determination of Joseph Cote, deceased halfbreed Kaw allottee (KA–18–1), pursuant to Private Law 90–318; to the Committee on the Judiciary.

733. A letter from the director, National Legislative Commission, American Legion, transmitting a statement of financial condition of the American Legion as of December 31, 1970; to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

734. A letter from the Comptroller General of the United States, transmitting an assessment of the Teacher Corps program at Northern Arizona University and participating schools on the Navajo and Hopi Indian Reservations, administered by the Office of Education, Department of Health, Education, and Welfare; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CABELL: Committee on Science and Astronautics. H.R. 7960. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes, (Rept. No. 92–204). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABOUREZK:

H.R. 8401. A bill to establish an executive department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

By Mrs. ABZUG (for herself and Mrs. CHISHOLM):

H.R. 8402. A bill to provide a comprehensive child development program in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. BEGICH:

H.R. 8403. A bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces; to the Committee on Armed Services.

By Mr. BENNETT:

H.R. 8404. A bill to amend chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, to make certain improvements therein; to the Committee on Armed Services.

H.R. 8405. A bill to authorize a study to determine the feasibility of a ship-turning basin in the Jacksonville Harbor, Fla.; to the Committee on Public Works.

By Mr. BRINKLEY (for himself, Mr. KEITH, Mr. RHODES, Mr. MAYNE, Mr. PODELL, Mr. DANIELSON, and Mr. HALPERN):

H.R. 8406. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia:

H.R. 8407. A bill to authorize the District of Columbia to enter into the interstate agreement on qualification of educational personnel; to the Committee on the District of Columbia.

H.R. 8408. A bill to amend section 872 of the Foreign Service Act of 1946 to increase the maximum benefits payable to certain retired officers and employees of the Foreign Service who are reemployed in the Federal Government service; to the Committee on Foreign Affairs.

H.R. 8409. A bill to amend section 8332, title 5, United States Code, to provide for the inclusion in the computation of accredited services of certain periods of service rendered States or instrumentalities of States, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 8410. A bill to provide for amortization of railroad grading and tunnel bores, and for other purposes; to the Committee on Ways and Means.

H.R. 8411. A bill to amend section 1033 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. ABBITT, and Mr. MELCHER):

H.R. 8412. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. BURLISON of Missouri:

H.R. 8413. A bill to amend part II of the Interstate Commerce Act in order to completely exempt certain farm vehicles and farm vehicle drivers from the provisions thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. CELLER:

H.R. 8414. A bill to suspend the death penalty for 2 years; to the Committee on the Judiciary.

By Mr. COLLIER:

H.R. 8415. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for employers who hire unemployed Vietnam veterans; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 8416. A bill to amend the Internal Revenue Code of 1954 to modify the definition of "student" under section 151; to the Committee on Ways and Means.

By Mr. ECKHARDT (for himself, Mr. ROSENTHAL, Mr. HARRINGTON, Mr. HATHAWAY, Mr. HAWKINS, Mrs. HICKS of Massachusetts, Mr. HORTON, Mr. KOCH, Mr. MATSUNAGA, Mr. MAZZOLI, Mr. MIKVA, Mrs. MINK, Mr. MITCHELL, Mr. MORSE, Mr. MOSS, Mr. MURPHY of New York, Mr. RANGEL, Mr. REID of New York, Mr. ROY, Mr. RYAN, Mr. SARBANES, Mr. SCHEUER, Mr. SCHWENGEL, Mr. TIERNAN, and Mr. VANIK):

H.R. 8417. A bill to amend the Fair Packaging and Labeling Act to require certain labeling to assist the consumer in purchases of packaged perishable or semiperishable foods; to the Committee on Interstate and Foreign Commerce.

By Mr. GERALD R. FORD:

H.R. 8418. A bill to amend the Bail Reform Act of 1966 to provide for pretrial detention of dangerous persons charged with dangerous or organized crime acts; to the Committee on the Judiciary.

H.R. 8419. A bill to amend the Bail Reform Act of 1966 to authorize consideration of danger to the community in setting conditions of release, to authorize revocation of pretrial release for persons who violate their release conditions, intimidate witnesses or jurors, or commit new offenses, and for other purposes; to the Committee on the Judiciary.

By Mr. HALPERN:

H.R. 8420. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts:

H.R. 8421. A bill to amend titles 10 and 37, United States Code, to provide for equality of treatment for military personnel in the application of dependency criteria; to the Committee on Armed Services.

By Mrs. HICKS of Massachusetts:

H.R. 8422. A bill to amend the National Housing Act to require that certain private housing projects for lower income families must receive approval from a board composed of residents from the locality in which such project is to be located as a requisite of receiving Federal assistance; to the Committee on Banking and Currency.

H.R. 8423. A bill to amend the Public Health Service Act to provide for the establishment of a National Sickle Cell Anemia Institute; to the Committee on Interstate and Foreign Commerce.

H.R. 8424. A bill to establish a contiguous fishery zone (200-mile limit) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. JOHNSON of California (for himself, Mr. ASPINALL, Mr. HOSMER, Mr. RHODES, Mr. UDALL, Mr. KAZEN, Mr. MCCLURE, Mr. STEIGER of Arizona, and Mr. ABOUREZK):

H.R. 8425. A bill to amend the act of September 21, 1959 (73 Stat. 584); to the Committee on Interior and Insular Affairs.

By Mr. KOCH (for himself and Mr. VANDER JAGT):

H.R. 8426. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. MATSUNAGA:

H.R. 8427. A bill to amend section 5(c) of the Home Owners' Loan Act of 1933; to the Committee on Banking and Currency.

H.R. 8428. A bill to amend the State Technical Services Act of 1965 to make municipal government eligible for technical services under the act, to extend the act through fiscal year 1974, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MELCHER:

H.R. 8429. A bill to amend section 5 of Public Law 89-664 which established the Bighorn Canyon National Recreation Area; to the Committee on Interior and Insular Affairs.

By Mr. MICHEL:

H.R. 8430. A bill to amend the Interstate Commerce Act, section 204; to the Committee on Interstate and Foreign Commerce.

By Mr. MINISH:

H.R. 8431. A bill to restore balance in the federal system of government in the United States; to provide both the flexibility and resources for State and local government officials to exercise leadership in solving their own problems; to achieve a better allocation of total public resources; and to provide for the sharing with State and local governments of a portion of the tax revenue received by the United States; to the Committee on Ways and Means.

By Mr. PATMAN (by request):

H.R. 8432. A bill to authorize emergency loan guarantees to major business enterprises; to the Committee on Banking and Currency.

By Mr. PODELL:

H.R. 8433. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development of nonlethal methods and devices for crowd and riot control, and to provide for the acquisition of, and instruction in, such nonlethal methods and devices by State and local law enforcement agencies; to the Committee on the Judiciary.

H.R. 8434. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

H.R. 8435. A bill to amend the Internal Revenue Code of 1954 to restore to individuals who have attained the age of 65 the right to deduct all expenses for their medical care, and for other purposes; to the Committee on Ways and Means.

By Mr. ROGERS (for himself, Mr. HÉBERT, Mr. ARENDS, Mr. TEAGUE of Texas, Mr. BOGGS, Mr. O'NEILL, Mr. SIKES, Mr. BENNETT, Mr. BOLAND, Mr. BRAY, Mr. MCFALL, Mr. ANDREWS of Alabama, Mr. HALEY, Mr. FASCELL, Mr. HAGAN, Mr. KING, Mr. BRINKLEY, Mr. CLANCY, Mr. GUBSER, Mr. NICHOLS, Mr. PEPPER, Mr. WHALEN, Mr. MOLLOHAN, Mr. LENNON, and Mr. MURPHY of New York):

H.R. 8436. A bill to provide comprehensive drug addiction treatment for members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. ROGERS (for himself and Mr. HALEY) (by request):

H.R. 8437. A bill to convey reserved phosphate interests of the United States in certain nonphosphate lands in Highlands County, Fla.; to the Committee on Interior and Insular Affairs.

By Mr. ROSENTHAL (for himself, Mr. ECKHARDT, Mr. ABOUREZK, Mr. ADDABBO, Mr. BADILLO, Mr. BEGICH, Mr. BINGHAM, Mr. BOLAND, Mr. BRADEMAS, Mr. BRASCO, Mr. BURKE of Massachusetts, Mrs. CHISHOLM, Mr. COLLINS of Illinois, Mr. CORMAN, Mr. DANIELSON, Mr. DINGELL, Mr. DONOHUE, Mr. DRINAN, Mr. DULSKI, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. FRASER, Mr. GALLAGHER, and Mrs. GRASSO):

H.R. 8438. A bill to amend the Fair Packaging and Labeling Act to require certain labeling to assist the consumer in purchases of packaged perishable or semiperishable foods; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. ECKHARDT, Mr. HELSTOSKI, Mr. HECHLER of West Virginia, Mr. HUNGATE, Mr. CHARLES H. WILSON, and Mr. YATES):

H.R. 8439. A bill to amend the Fair Packaging and Labeling Act to require certain labeling to assist the consumer in purchases of packaged perishable or semiperishable foods; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHWENGEL:

H.R. 8440. A bill to amend section 118 of title 23, United States Code, to extend the period of availability of apportioned sums; to the Committee on Public Works.

By Mr. SCOTT:

H.R. 8441. A bill to prohibit display of the flags of the Vietcong and the Government of North Vietnam; to the Committee on the Judiciary.

By Mr. SCOTT (for himself, Mr. GIBBONS, Mr. BADILLO, Mr. HAYS, Mr. PIRNIE, Mr. THOMSON of Wisconsin, Mr. WINN, Mr. SEBELIUS, Mr. CHAPPELL, Mr. LANDGREBE, Mr. SHOUP, Mr. FOUNTAIN, Mr. FLOWERS, Mr. COUGHLIN, Mr. RANGEL, Mrs. CHISHOLM, Mr. DANIELSON, Mr. COLLINS of Illinois, Mr. MITCHELL, Mr. BURKE of Massachusetts, Mr. STOKES, Mr. BURTON, Mr. ZWACH, and Mr. DENNIS):

H.R. 8442. A bill to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to facilitate direct communication between officers and employees of the U.S. Postal Service and Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SHRIVER:

H.R. 8443. A bill to amend the Clayton Act by adding a new section to prohibit sales below cost for the purpose of destroying competition or eliminating a competitor; to the Committee on the Judiciary.

H.R. 8444. A bill to amend title II of the Social Security Act to increase the benefit payable to the widow or widower of an insured individual to 100 percent of such individual's primary insurance amount, and to increase the lump-sum death payment to $750 in all cases; to the Committee on Ways and Means.

By Mr. SIKES (for himself, Mr. STEED, Mr. HALEY, Mr. SLACK, Mr. YOUNG of Florida, Mr. BENNETT, Mr. CEDERBERG, and Mr. CHAPPELL):

H.R. 8445. A bill limiting the use for demonstration purposes of any federally owned property in the District of Columbia, requiring the posting of a bond, and for other purposes; to the Committee on Public Works.

By Mr. SISK:

H.R. 8446. A bill to define the authority of the President of the United States to intervene abroad or to make war without the express consent of the Congress; to the Committee on Foreign Affairs.

By Mr. THOMPSON of Georgia:

H.R. 8447. A bill to permit American citizens to hold gold when there is no requirement that gold reserves be held against currency in circulation, and for other purposes; to the Committee on Banking and Currency.

H.R. 8448. A bill to authorize the Secretary of the Interior to protect, manage, and control free-roaming horses and burros on public lands; to the Committee on Interior and Insular Affairs.

By Mr. THOMSON of Wisconsin:

H.R. 8449. A bill to amend the Rural Electrification Act of 1936, as amended, to provide additional funds to be used by rural electrification borrowers in furthering the objectives of the National Environmental Policy Act of 1969; to the Committee on Agriculture.

By Mr. VEYSEY:

H.R. 8450. A bill to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan; to the Committee on Armed Services.

By Mr. CHARLES H. WILSON:

H.R. 8451. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WINN:

H.R. 8452. A bill to establish a National Environmental Bank, to authorize the issuance of U.S. environmental savings bonds, and to establish an environmental trust fund; to the Committee on Banking and Currency.

By Mr. BOW (for himself, Mr. ARENDS, Mr. BARING, Mr. CLANCY, Mr. DEVINE, Mr. GROSS, Mr. HALL, Mr. HARSHA, Mr. KUYKENDALL, Mr. MARTIN, Mr. MILLER of Ohio, Mr. PELLY, Mr. SCHERLE, Mr. SHRIVER, Mr. TALCOTT, Mr. THOMSON of Wisconsin, and Mr. BETTS):

H.R. 8453. A bill to prohibit display of the flags of the Vietcong and the Government of North Vietnam; to the Committee on the Judiciary.

By Mr. BUCHANAN:

H.R. 8454. A bill to amend the Airport and Airway Development and Revenue Acts of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DOWNING (by request):

H.R. 8455. A bill to authorize the Secretary of Commerce to increase the availability of insurance coverage for U.S. fishing vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FULTON of Pennsylvania:

H.R. 8456. A bill for the relief of Soviet Jews; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 8457. A bill to provide for uniform and full disclosure of information with respect to the computation and payment of interest on certain savings deposits; to the Committee on Banking and Currency.

By Mr. HAMMERSCHMIDT:

H.R. 8458. A bill to amend part II of the Interstate Commerce Act in order to completely exempt certain farm vehicles and farm vehicle drivers from the provisions thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. LENNON (for himself and Mr. BOB WILSON):

H.R. 8459. A bill to amend chapter 607 of

title 10, United States Code, with respect to retirement of civilian members of the teaching staff of the U.S. Naval Academy; to the Committee on Armed Services.

By Mrs. MINK:

H.R. 8460. A bill to amend the Food Stamp Act to allow eligible households to purchase certain imported foods with food stamps; to the Committee on Agriculture.

H.R. 8461. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes; to the Committee on Armed Services.

H.R. 8462. A bill for the relief of certain orphans in Vietnam; to the Committee on the Judiciary.

By Mr. THONE:

H.R. 8463. A bill to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to facilitate direct communication between officers and employees of the U.S. Postal Service and Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 8464. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

By Mr. TIERNAN:

H.R. 8465. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise the eligibility conditions for annuities, to change the railroad retirement tax rates, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WAGGONNER:

H.R. 8466. A bill limiting the use for demonstration purposes of any federally owned property in the District of Columbia, requiring the posting of a bond, and for other purposes; to the Committee on Public Works.

By Mr. HALPERN:

H.R. 8467. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

By Mr. BARING:

H.J. Res. 640. Joint resolution proposing an amendment to the Constitution of the United States to insure the rights of parents and local school authorities to determine which school the children in that locality will attend; to the Committee on the Judiciary.

By Mr. FRASER (for himself and Mr. KARTH):

H.J. Res. 641. Joint resolution to direct the National Railroad Passenger Corp. to make a study with respect to expanding the basic national rail passenger system; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. SPRINGER) (by request):

H.J. Res. 642. Joint resolution to provide for a temporary prohibition of strikes or lockouts with respect to the current railway labor-management dispute; to the Committee on Interstate and Foreign Commerce.

By Mr. GROSS:

H. Con. Res. 303. Concurrent resolution calling for suspension of military and economic assistance to Pakistan until the present conflict in the country is resolved; to the Committee on Foreign Affairs.

By Mr. HALPERN (for himself, Mrs. ABZUG, Mr. BADILLO, Mr. BINGHAM, Mr. BURKE of Massachusetts, Mr. BURTON, Mr. COUGHLIN, Mr. DELLUMS, Mr. DRINAN, Mr. GUDE, Mr. HARRINGTON, Mr. KOCH, Mr. MIKVA, Mr. MITCHELL, Mr. MORSE, Mr. MOSS, Mr. RANGEL, Mr. RIEGLE, Mr. ROSENTHAL, and Mr. RYAN):

H. Con. Res. 304. Concurrent resolution calling for suspension of military assistance to Pakistan until the present conflict in the country is resolved; to the Committee on Foreign Affairs.

By Mr. McDADE:

H. Con. Res. 305. Concurrent resolution expressing a proposal by the Congress of the United States for securing just treatment and safe return of American and other prisoners of war, and to urge negotiations for withdrawal of all U.S. military combat forces from Indochina; to the Committee on Foreign Affairs.

By Mr. PODELL:

H. Con. Res. 306. Concurrent resolution expressing the sense of Congress relating to films and broadcasts which defame, stereotype, ridicule, demean, or degrade ethnic, racial, and religious groups; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER:

H. Con. Res. 307. Concurrent resolution expressing the sense of the Congress toward ending the war in Indochina; to the Committee on Foreign Affairs.

By Mr. MATSUNAGA:

H. Res. 442. Resolution on dismissal of professional air traffic controllers by the Federal Aviation Administration; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL:

H. Res. 443. Resolution to amend rules X, XII, and XIII of the Rules of the House of Representatives; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

174. By the SPEAKER: Memorial of the Legislature of the State of California, relative to housing; to the Committee on Banking and Currency.

175. Also memorial of the Legislature of the Commonwealth of Pennsylvania, ratifying the proposed amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age and older; to the Committee on the Judiciary.

176. Also, memorial of the Legislature of the State of Nevada, relative to a study of the water problems in the Hawthorne, Nev., area; to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia (by request):

H.R. 8468. A bill to convey certain lands located in Spotsylvania County, Va., to J. E. Bashor and Marie J. Bashor; to the Committee on Interior and Insular Affairs.

By Mr. COTTER:

H.R. 8469. A bill for the relief of Francesco Gandolfo and his wife, Betty Aurora Gandolfo; to the Committee on the Judiciary.

By Mr. HARVEY:

H.R. 8470. A bill for the relief of Diane Irene Fritzler; to the Committee on the Judiciary.

H.R. 8471. A bill for the relief of Adelaide Reitz; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 8472. A bill for the relief of James H. Davidson, Vincent W. S. Hee, and Kay M. Mochizuki; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 8473. A bill for the relief of Cenilda da Silva Costa; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 8474. A bill for the relief of Lt. (junior grade) Robert J. Finnerty; to the Committee on the Judiciary.

H.R. 8475. A bill for the relief of Lt. (junior grade) William B. Hodgins; 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:

75. By the SPEAKER: Petition of Joseph R. Julia, New York, N.Y., relative to procedures used by the Foreign Claims Settlement Commission; to the Committee on Foreign Affairs.

76. Also, petition of Romualdo Maturan, Dumaguete City, Philippines, et al., relative to redress of grievances; to the Committee on the Judiciary.

77. Also, petition of the Board of Supervisors of the City and County of San Francisco, Calif., relative to general revenue sharing; to the Committee on Ways and Means.

SENATE—*Monday, May 17, 1971*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. ELLENDER).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

We thank Thee, O God, for Thy blessing upon this Nation through many generations. We thank Thee for men of wisdom and virtue given to us by Thy providence in every hour of danger and time of testing. When tension is high and need is great, be to us still our guide and strength, using Thy servants in this place for the welfare of the people. Amid the monuments of stone and marble help us here to create a monument to the human spirit at work in democratic institutions bringing to fulfillment Thy coming kingdom of compassion, justice, and love.

In the Master's name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, May 14, 1971, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order the distinguished Senator from Oklahoma (Mr. BELLMON) is now recognized for 15 minutes.