ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 9 A.M. ON WEDNESDAY, NOVEMBER 10, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 9 a.m. on Wednesday.

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

ORDER FOR RECOGNITION OF SENATOR HARRIS ON WEDNESDAY

Mr. BYRD of West Virginia. I ask unanimous consent that following the recognition of the two leaders on Wednesday, the distinguished senior Senator from Oklahoma (Mr. HARRIS) be recognized for not to exceed 15 minutes.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will meet at 9:45 a.m.

After the two leaders have been recognized, Senator TUNNEY and Senator SPONG will be recognized, each for not to exceed 15 minutes and in that order, following which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with a 3-minute limitation on statements, at the conclusion of which the Senate will go into executive session and the Chair will lay before the Senate Executive J, 92d Congress, first session, the so-called Okinawa Treaty.

Debate is expected to be concluded on that treaty tomorrow.

ADJOURNMENT UNTIL 9:45 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:45 a.m. tomorrow.

The motion was agreed to; and (at 8 o'clock and 45 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, November 9, 1971, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate November 8,1971:

U.S. REPRESENTATIVE ON THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Mrs. Betty Crites Dillon, of Indiana, the representative of the United States of America on the Council of the International Civil Aviation Organization, to serve on the Council with the rank of Minister.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenants

Abram Y. Bryson, Jr.
Warren K. Taguchi

CONFIRMATIONS

Executive nominations confirmed by the Senate November 8, 1971:

IN THE COAST GUARD

The nominations beginning Herbert H. Mulvany, to be captain, and ending David C. Jeffrey, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 28, 1971.

U.S. DISTRICT COURTS

William J. Bauer, of Illinois, to be a U.S. district judge for the northern district of Illinois.

U.S. ATTORNEYS

James R. Thompson, Jr., of Illinois, to be U.S. attorney for the northern district of Illinois for the term of 4 years.

Herbert J. Stern, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years.

U.S. MARSHAL

Thomas E. Ferrandina, of New York, to be U.S. marshall for the southern district of New York for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Monday, November 8, 1971*

The House met at 12 o'clock noon.

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

Lord teach us to pray, and He said unto them, *When you pray, say, Our Father.*—Luke 11: 1,2.

With the coming of another week, our Father, we pause at the altar of prayer, founded by our fathers, that we may be strengthened with might by Thy spirit to face the tasks of these hours with faith and hope and love. We rejoice and our hearts take courage when we consider our faith in freedom and we pray that now and always we may have freedom to have faith and to pray as we desire.

Bless our President, our Speaker, Members of Congress, and all who labor with them. Gird them with cheerful courage and inspiring insight that they may highly resolve that this white-domed Capitol may be the symbol not only of material might but of reality in religion proclaiming to all men the moral and spiritual resources upon which our freedoms rest and without which they disintegrate and disappear.

Unite our Nation in freedom and with good will that we may open the gates to a better life for our people and for all mankind. 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.

PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, pursuant to clause 4, rule XXVII, I call up motion No. 1 to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 191, a proposed amendment to the Constitution of the United States relative to the offering of prayer in public buildings.

The SPEAKER. Did the gentleman sign the motion?

Mr. WYLIE. Yes, Mr. Speaker, I signed the motion.

The SPEAKER. The gentleman from Ohio calls up a motion to discharge the Committee on the Judiciary from the further consideration of the joint resolution (H.J. Res. 191) which the Clerk will report by title.

The Clerk read the title of the joint resolution.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 364]

Alexander	Edwards, La.	Obey
Ashley	Erlenborn	Pelly
Barrett	Foley	Pickle
Belcher	Ford, William D.	Pryor, Ark.
Bell	Grasso	Roe
Bevill	Gray	Roy
Biaggi	Green, Oreg.	Ruppe
Brasco	Green, Pa.	Scheuer
Broomfield	Gubser	Skubitz
Caffery	Gude	Stanton, J. William
Camp	Halpern	Stanton, James V.
Chappell	Harvey	Steele
Clark	Hawkins	Steiger, Wis.
Clay	Helstoski	Stephens
Cotter	Hull	Stokes
Crane	Lloyd	Stuckey
Davis, Wis.	Long, La.	Tiernan
Dent	McMillan	Vigorito
Diggs	Minshall	Wilson, Bob
Dorn	Mosher	
Dowdy	Nichols	
Dulski		

The SPEAKER. On this rollcall 365 Members have answered to their names, a quorum.

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amend-

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ment a bill of the House of the following title:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1483) entitled "An act to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. MCGOVERN, Mr. ALLEN, Mr. MILLER, and Mr. BELLMON to be the conferees on the part of the Senate.

PRAYER AMENDMENT

The SPEAKER. Under the rule, the gentleman from Ohio (Mr. WYLIE) will be recognized for 10 minutes, and the gentleman from New York (Mr. CELLER) will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, on June 25, 1962, the Supreme Court of the United States decided Engel against Vitale which, for all practical purposes, voided school prayer. At least that is what most people in the United States felt. The banner headline in the Columbus Dispatch on that day said "Supreme Court Voids School Prayer."

The actual holding of the Court in *Engel* v. *Vitale,* 370 U.S. 421 (1962), was that the prohibition of the first amendment respecting the establishment of a religion, which was made applicable to the States by the 14th amendment, made unconstitutional the saying of a prayer even though denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited, if that prayer was composed and required by a State board of regents.

That decision, I submit, was wrong as a matter of constitutional law in that it placed the atheist and believer in a supreme deity in the same category in applying the first amendment. And, as later events proved, it voided what most people thought was a constitutional practice for 171 years. Some constitutional lawyers and others felt that the decision was correct in that it held only that a prayer prescribed by the State was unconstitutional. I might add that the prayer in that case was composed by a Jewish rabbi, a Catholic priest, and a Protestant minister. That prayer was "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country."

The people who felt that the Supreme Court had wrongly decided did not have to wait long before their fears were verified. In Abington against Schempp, the Supreme Court struck down laws in Pennsylvania and Maryland providing for classroom Bible reading without comment, again because the practice was provided for by a State law.

It was about this time that the Judiciary Committee commenced hearings following the filing of a discharge petition by former Congressman Frank Becker which had received 186 signatures. The Judiciary Committee staff which conducted a study on this issue pointed to the Stein against Oshinsky case which had just been decided by a trial court in New York and upheld the right of children to recite voluntarily two simple children's prayers, one of which was "Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything."

The staff study in 1964 said that it might be well to consider whether to wait further clarification by the Supreme Court before acting on these proposals to amend the Constitution because of the decision in the Stein case. A short time later, however, the U.S. Court of Appeals held the practice unconstitutional, even though the prayers were found to be student initiated.

Two years later, the DeKalb case was decided in Illinois. Again, the trial court held that a schoolteacher could ask her students to recite a prayer prior to their morning milk and cookies. Again, it was the same prayer as was mentioned in the Stein case, "Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything."

After the Stein case, the teacher, Mrs. Watne, left out the word "God," thinking this would comply with the holding of the Stein case. Again, the Federal Court of Appeals for Illinois reversed the decision and said a teacher could not require children in her class to recite prayers prior to their morning snack—a prayer, however innocuous and however much social value it might have in teaching "good manners" and "gratitude," to use Mrs. Watne's words, is unconstitutional in this setting.

A more recent example of the legal principle formulated in Engel, carried to its logical extreme, came after the board of education of Netcong, N.J., authorized the superintendent of schools to provide "a period of free exercise of religion" for students who wished to participate in a voluntary prayer. It was decided the students could arrive early and gather in the gymnasium. A voluntary student reader was selected on a first come-first serve basis to read the remarks of the Chaplain from the CONGRESSIONAL RECORD. To make a long story short, the Supreme Court of New Jersey held that this was an unconstitutional practice, in violation of the establishment clause of the first amendment, and certiorari was denied by the Supreme Court of the United States. This is the ludicrous extreme to which we have arrived about this matter of prayer in public schools, and that is why we need House Joint Resolution 191 to clarify the situation.

Mr. Speaker, I respectfully urge you to support the discharge motion; to vote the motion for immediate consideration; to support the previous question; and to vote for the amendment.

The SPEAKER. The Chair recognizes the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Speaker, I rise in opposition to the motion to discharge the Judiciary Committee.

In 1964 the committee held extensive hearings on 35 different forms of the so-called prayer resolutions, some quite similar to the one now pending before this House. These hearings, which extended over a 3-month period, were deemed to be of such importance that they were held before all the 35 members of the full committee, sitting en banc.

Over 200 witnesses were heard from all walks of life: Congressmen, professors, theologians, educators, constitutional law experts, church leaders, and concerned citizens. In printed form the hearings comprise three volumes totaling 2,774 pages and constituted the most exhaustive and comprehensive investigation ever made of the subject. Copies of these hearings have been distributed to all Members in recent weeks.

The various groups and organizations who opposed the prayer amendments in 1964, today, 7 years later, still are of the same mind. Nearly all the major religious denominations, over 38 of them—Methodist, Catholic, Baptist, Presbyterian, Episcopalian, United Church of Christ, Quaker, and major Jewish groups—oppose House Joint Resolution 191. Three hundred and forty-three law professors and constitutional lawyers have signed a statement in opposition. Thirty presidents of theological seminaries, and deans of divinity schools are in opposition. Leading educators oppose it, for instance, Francis Keppel, former U.S. Commissioner of Education, and Harvey B. Scribner, chancellor of New York City public schools. All of these people are thoughtful members of our national community with highly regarded reputations. They are sincerely concerned at the danger of tampering with the first amendment. Additionally, thousands of concerned citizens have communicated to me and to all of you, I am sure, their opposition to this amendment.

The 1964 hearings convinced me, and, I believe, also convinced the other members of the committee, at that time, that appropriate language could not be devised without doing violence to the first amendment and our freedom of religion which we all so dearly cherish.

Mr. Speaker, if 35 distinguished lawyers, after hundred of hours of testimony could not write acceptable language, how can this House, in a scant 1 hour of debate do so?

Let us take House Joint Resolution 191 and examine it briefly. What does "lawfully assembled" mean? What about "supported in whole or in part through the expenditure of public funds?" To what degree "in part?" And, of course, "nondenominational." Does anyone, or can anyone, know what this means?

Let us remember that this is a constitutional amendment we are writing.

If the committee system has any merit at all its merit is manifest where, as here, we deal with the Constitution of

the United States. Amendment of the Constitution, can never be undertaken lightly. Each word must be weighed with precision for all possible meanings and implications, taken in conjunction with all other words used and in conjunction with already existing constitutional law. This calls for an understanding and knowledge not only of case law but also of the history of the law and its philosophy.

In short, the addition of a single word may give an entire sentence a meaning not readily apparent and perhaps not wholly intended. We must always go back to the original fashioning of the text. Obviously, Mr. Speaker, the floor of the House is not the place to write constitutional amendments and I urge all my colleagues to vote against discharging the committee.

The SPEAKER. Does the chairman desire to yield time at this time?

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, the question is: Shall the House Judiciary Committee be discharged of its functions and shall the House thereafter proceed to amend the Constitution of the United States, the first amendment to the Constitution of the United States, after 1 hour of controlled debate? To that question there is but one responsible answer, and that is "No," it should not.

The sponsors of this amendment say that its purpose is to authorize but not to require nondenominational or perhaps voluntary prayer in public schools. The sponsors say that its purpose is to overturn the result of Engel against Vitale. In that case Members will recall that the school board prescribed the text of the prayer to be recited in class.

How many Members wish to grant Government the right to prescribe the text of a prayer to be recited before young and impressionable children assembled in public schools? That is to concede an enormous power to Government, a power that Government does not now possess.

Of course, Government can be fair. Government can be benevolent. But it has not always been so. Government has been bigoted. Government has been intolerant in the past. This is not the time to gamble about the future attitude of Government. Freedom can only be assured if Government stays out of the business of authorizing prayers in public schools.

Many harbor the mistaken belief that the Supreme Court has outlawed prayers in public schools. It has not. Individuals if they wish may now engage singly or in groups in prayer in public schools or other public buildings without violating the Constitution, subject only to a very few limitations. The religious exercises obviously must not interfere with school's secular activities; the activity must not be sponsored by, or appear to be sponsored by, the governing body; and the activity must be truly voluntary.

That is the law now and that is the law which the amendment seeks to change.

Any change involving Government in the business of religion is not a change for the better.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, there has been some word stretching in recent days, particularly by the liberal press. We are being told the Supreme Court's ruling on prayer does not necessarily mean a ban on prayer and on the teaching of religion in the schools. Whatever the wording, that is what the ruling did. It put a stop to prayer in the schools.

From the same sources, and some that are more reliable, you are being warned against damage to freedom of speech and to the first amendment. It occurs to me there is such a thing as too much freedom of speech. The same Court which stopped prayer in the schools has said the news media can lie about you with absolute immunity. It has said a Communist-oriented newspaper can publish any secrets it can buy or steal without regard to the danger to national security. Crime is rampant, and the people look at rulings of the Court which make it almost impossible to convict criminals but disregard the rights of the law abiding. Permissiveness has become the order of the day. It is not a wholesome situation.

This is the freedom of speech you are being asked to protect when you uphold the Supreme Court decision against prayer. If you are one of those who plan to vote against the prayer amendment today, I want to be around to hear you explain to your constituents your vote against prayer to God and for the Court.

The rank and file of Americans know the importance of, appreciate, and want religion in their lives and in the schools.

No less a person than George Washington said in his Farewell Address:

> Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

He also said:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports.

I think it appropriate now on this date to realize how much religion also is needed in and out of the schools. Regardless of how you frame it, the effects of the Court's ruling has been to kill prayer in the schools. This is not good for a nation which always has accepted religion as one of its foundation stones.

That is why I rise in full support to the constitutional amendment which will restore for millions of America's youth now and in the future the unchallenged right to prayer in the schools. In reality it is said that we have come to this. For nearly 200 years there was no question of this right. Certainly the framers of the Constitution had no such prohibition in mind when they set down the words which have guided this Nation for so long.

But because of the efforts of atheists, the question did come before the Supreme Court and, rightly or wrongly, the Court's ruling has had the effect of killing prayer in the schools. It is ironical that despite this situation, the Court itself, as well as the House and Senate, open each day with a prayer.

Now we have come to the time to restore through amendment that right which many of us believe was taken from our children wrongfully. Let us pass this amendment forthwith and send it to the States for ratification.

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker, I think it is significant that among the 218 distinguished Members of this body who originally signed the discharge petition, a number of them have expressed to me very grave misgivings about having done so—not that they are against prayer or that I am against prayer, or that anyone who may vote in the negative here today is against prayer, but because they find, as the gentleman from California (Mr. WIGGINS) pointed out so ably here a moment ago, that we are indeed tampering, with 1 hour of debate, with our Bill of Rights.

It took us a long time to get a Bill of Rights. It comes after many years of struggle. Yet the Bill of Rights was essential to the ratification of the Constitution.

The men who wrote our Constitution were painfully aware of the need for the separation of church and state. History afforded them many examples of what can happen when the state meddles in religious issues or when the church becomes involved in secular matters. Virginia and Massachusetts had both been the scene of religious persecution. In Virginia, the persecution of Baptist ministers had led Thomas Jefferson to draft the Virginia Statute of Religious Freedom, which provides, in part:

> That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods . . . or otherwise suffer . . . on account of his religious opinions or belief.

The solution of our forefathers to the problem of church and state was to establish an inviolable principle of separation. The principle emerges in both article VI and in the first clause of the first amendment of our Bill of Rights.

Throughout our history, we have sought to expand, rather than qualify, the rights, privileges, and immunities guaranteed under the Bill of Rights. Today, we are asked to qualify for the first time a first amendment freedom and to depart from the time-honored principle of separation of church and state.

Mr. Speaker, I recognize the value of prayer and appreciate the motives of those who are proposing this amendment.

Unfortunately, I believe, the amendment poses dangers far outweighing its virtues.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker, if the opportunity presents itself subsequently, would the gentleman from Louisiana vote to expand the time for debate?

Mr. BOGGS. Mr. Speaker, at this time I do not believe I would. No, I think the

issue is understood. These words we have before us are the ones that the 218 Members who signed the petition, considered long and hard before signing. The whole idea of tinkering with the Bill of Rights to the Constitution of the United States, after all the blood it required to get that Bill of Rights, is something we should think long and hard about.

I am impressed with the comments of the religious leaders, who are in opposition, just read by the distinguished chairman, the gentleman from New York.

Mr. Speaker, the amendment is opposed by most of the major religious bodies in the United States. These groups include: The U.S. Catholic Conference—the national action agency of the Roman Catholic bishops—the United Presbyterian Church, the Presbyterian Church in the United States, the Lutheran Church-Missouri Synod, the American Lutheran Church, the Luthern Church in America, the National Council of Churches, the Southern Baptist Convention, the American Baptist Convention, the Unitarian Universalist Association, the United Church of Christ, the Church of the Brethren, the United Methodist Church, the Protestant Episcopal Church, the Mennonite Central Committee, and the joint advisory committee of the Synagogue Council of America, and the National Jewish Relations Advisory Council, which includes all of the major Jewish secular and religious bodies.

If the Protestant congregations, the Jewish congregations, and the Catholic congregations are opposed, I do not believe, in the matter of prayer, which involves the most sacred thing in all these congregations, that we should presume to put our will ahead of all these expressions that we have had.

Their opposition must be considered along with, of course, the opposition of very distinguished constitutional lawyers and law school deans from all over the country.

So I hope, Mr. Speaker, we will think about this at great length; that we will recognize the fact that the Judiciary Committee heard countless witnesses just a few days ago; that this is not an issue that can be resolved in this fashion. I hope the proposal to amend the first amendment and the Constitution of the United States will be voted down.

The SPEAKER. The gentleman from Ohio has 4 minutes remaining.

Mr. WYLIE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I very deeply respect the sincerity of those who oppose this action today, and their opposition in some cases gives me some trepidation. And yet I simply cannot embrace their apprehensions nor agree with their conclusions.

If, as some declare, this constitutional amendment would merely reinforce what the courts have held, then clearly it does no harm. And if it serves to clarify and thus dispel the clouds of confusion that have surrounded this subject in the wake of the Supreme Court ruling of 1962 and subsequent rulings, then it does some good.

The great problem is that nobody can be absolutely certain as to just how far those rulings go.

The late Mr. Justice Black, speaking for the Court in 1962, referred repeatedly to the use of an official prayer. His opinion, carefully read, would seem not to outlaw prayer but merely to prohibit any State from writing an official prayer and requiring it to be said in the public schools. With that I would have no quarrel whatever.

But Justice Douglas, in a concurring opinion, went much further. His statement could be interpreted to mean that we cannot have prayers of any sort in public schools. That conclusion, of course, would disrupt longstanding practices in almost every State of the Union.

The resulting confusion has, in fact, profoundly disrupted tradition. School boards and local administrators in many areas, uncertain of the Court's meaning and fearful of possible judicial reprisals, have ordered the discontinuance of any public prayers.

Not only in our schools but in every institution of our public life has the tradition of prayer been sanctified.

When the Constitutional Convention was deadlocked, Benjamin Franklin asked his fellow delegates to pause in their deliberations and offer prayer for divine guidance.

The Congress, as all of us know, begins its daily sessions with prayer in both House and Senate.

The Supreme Court itself, since the days of John Marshall, has opened each day's deliberations with the supplication, "God, save the United States and this Honorable Court."

Our very coinage carries the words, "In God We Trust."

The President takes his oath of office with his hand upon the Holy Bible.

The oaths taken by naturalized citizens, by public officials, and by witnesses in our courts, end with the words, "So help me God."

The recognition and supplication of deity is thus inherent in almost every phase of our public life.

Apparently speaking of these practices, Justice Douglas expressed his opinion that "it is an unconstitutional undertaking whatever form it takes." I think Justice Douglas is wrong in his interpretation of the Constitution. So, I believe, do most of my colleagues. So, I earnestly hope and trust, do most of his colleagues on the Supreme Court.

To make sure that we protect the rights of children to have voluntary prayers in their schools, this amendment merely would forbid the prohibition of such prayers. It would not require prayer. It would merely permit it.

Like most of you, I am a product of the public schools. During my days as a student, there was a practice of permitting one student each morning to lead the group in a brief devotional of his own composition. I think it was an excellent practice and an enriching experience. I cannot believe that it did any harm to anyone.

This question goes to the very heart of one of the most fundamental of our national doctrines—the separation of church and state as guaranteed in the first amendment to the Constitution.

One of my colleagues once facetiously remarked that he not only believes in the separation of church and state, but practices it. "Since I have been in Congress, I have not been to church," he quipped. That, of course, is not what is meant by the doctrine of separation. The first amendment directs that:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

What this means is that Congress and State legislatures are prohibited from establishing a state church. In other words, so far as Government is concerned. there is to be no single "official" church or creed.

There is to be no religious examination as a prerequisite for citizenship, for voting, or for holding office. Protestant, Catholic, Jew, Hindu, Moslem, Buddist, atheist—are all equally entitled under the law to their individual beliefs and to the equal protection of our laws.

The first amendment did not mean, however, that there is to be no religion, or no religious prayer or expression in public places.

Jefferson and Madison fought for freedom of religion, not for prohibition of religion.

Lincoln spoke of "this Nation under God."

The very first sentence in our Declaration of Independence speaks of "Nature's God." The last sentence asserts "a firm reliance on the protection of Divine Providence." So our charter document begins and ends. And upon this, our Nation was founded.

While we must forever respect and assiduously protect the rights of all who disagree and must never require the minority to embrace the opinion of the majority, the fact remains that this Nation in solemn truth does believe in God. While the majority must respect the rights of the minority, the minority must also respect the rights of the majority.

If you and I should move to France, we might have conscientious objections to speaking the French language; but we certainly could not expect Frenchmen to stop speaking French just to accommodate our consciences.

And neither should those who do not want any prayers or supplication of deity in our schools or other public places expect the great majority of us to abandon these long-established practices simply to accommodate them. For a belief in God was the view of the universe upon which as a matter of historical fact this Nation was founded.

Many dedicated churchmen oppose this amendment. I have read their statements and respect their opinions. But I am more greatly impressed by the simple words of the Carpenter of Galilee who said:

> Suffer the little children to come unto me, and forbid them not, for of such is the Kingdom of Heaven.

When our forefathers had little for which to be thankful—except that they were alive and the fields had yielded harvest for the winter—they proclaimed a day of public thanksgiving.

Perhaps we, with many times more

for which to be thankful, should follow their example.

This amendment seems to me fully consistent with the finest traditions of American public life.

It seems consonant with the wishes and desires of most of our people.

It seems harmonious with the doctrine of separation as most of us have understood it.

For these reasons, I shall support it.

The SPEAKER. All time has expired.

The question is on the motion offered by the gentleman from Ohio (Mr. WYLIE) to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 191.

The question was taken; and the Speaker announced that the Chair was in doubt.

Mr. FLYNT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 242, nays 157, not voting 32, as follows:

[Roll No. 365]

YEAS—242

Abbitt	Eshleman	McKinney
Abernethy	Evins, Tenn.	Macdonald, Mass.
Addabbo	Fisher	Mahon
Andrews, Ala.	Flood	Mann
Andrews, N. Dak.	Flowers	Martin
Archer	Flynt	Mathias, Calif.
Arends	Ford, Gerald R.	Mathis, Ga.
Ashbrook	Fountain	Melcher
Baker	Frey	Metcalfe
Baring	Fuqua	Michel
Bennett	Galifianakis	Miller, Ohio
Bergland	Garmatz	Mills, Md.
Betts	Gaydos	Mizell
Biaggi	Gettys	Mollohan
Blackburn	Giaimo	Monagan
Blanton	Goldwater	Montgomery
Bow	Goodling	Morgan
Bray	Grasso	Murphy, Ill.
Brinkley	Gross	Murphy, N.Y.
Broomfield	Grover	Myers
Brotzman	Hagan	Natcher
Brown, Ohio	Haley	Nelsen
Broyhill, N.C.	Hall	O'Konski
Broyhill, Va.	Hammer-schmidt	O'Neill
Buchanan	Hanley	Perkins
Burke, Fla.	Harsha	Pettis
Burke, Mass.	Hastings	Pike
Burleson, Tex.	Hays	Pirnie
Byrne, Pa.	Hébert	Poage
Byrnes, Wis.	Hechler, W. Va.	Powell
Byron	Heckler, Mass.	Price, Ill.
Cabell	Heinz	Price, Tex.
Camp	Henderson	Pucinski
Carney	Hicks, Mass.	Purcell
Carter	Hicks, Wash.	Quie
Casey, Tex.	Hillis	Quillen
Cederberg	Hogan	Railsback
Chamberlain	Horton	Randall
Chappell	Hosmer	Rarick
Clancy	Howard	Rhodes
Clark	Hunt	Riegle
Clausen, Don H.	Ichord	Roberts
Clawson, Del	Jacobs	Robinson, Va.
Cleveland	Jarman	Roe
Collier	Johnson, Pa.	Rogers
Collins, Tex.	Jonas	Roncalio
Colmer	Jones, N.C.	Rooney, Pa.
Conte	Jones, Tenn.	Rostenkowski
Cotter	Kazen	Rousselot
Coughlin	Keating	Runnels
Daniel, Va.	Kee	Ruppe
Davis, S.C.	Kemp	Ruth
Davis, Wis.	King	St Germain
de la Garza	Kuykendall	Sandman
Delaney	Kyl	Sarbanes
Denholm	Kyros	Saylor
Dennis	Landgrebe	Scherle
Devine	Latta	Scheuer
Dickinson	Lennon	Schmitz
Donohue	Lent	Schneebeli
Downing	Link	Scott
Dulski	Lujan	Sebelius
Duncan	McClure	Shipley
Dwyer	McCollister	Shoup
Edmondson	McDade	Shriver
Edwards, Ala.	McDonald, Mich.	Sikes
Esch	McEwen	Slack
Snyder	Terry	Smith, Calif.
Spence	Thompson, Ga.	Winn
Springer	Thomson, Wis.	Wright
Staggers	Thone	Wyatt
Steed	Vander Jagt	Wydler
Steele	Veysey	Wylie
Steiger, Ariz.	Waggonner	Wyman
Stratton	Wampler	Yatron
Stubblefield	Whalley	Young, Fla.
Stuckey	White	Young, Tex.
Sullivan	Whitehurst	Zablocki
Taylor	Whitten	Zion
Teague, Calif.	Widnall	Zwach
Teague, Tex.	Williams	

NAYS—157

Abourezk	Ford, William D.	Moorhead
Abzug	Forsythe	Morse
Adams	Fraser	Mosher
Alexander	Frelinghuysen	Moss
Anderson, Calif.	Frenzel	Nedzi
Anderson, Ill.	Fulton, Tenn.	Nix
Anderson, Tenn.	Gallagher	Obey
Annunzio	Gibbons	O'Hara
Ashley	Gonzalez	Passman
Aspin	Green, Pa.	Patman
Aspinall	Griffin	Patten
Badillo	Griffiths	Pepper
Begich	Gude	Peyser
Biester	Hamilton	Podell
Bingham	Hanna	Poff
Blatnik	Hansen, Idaho	Preyer, N.C.
Boggs	Hansen, Wash.	Rangel
Boland	Harrington	Rees
Bolling	Hathaway	Reid, N.Y.
Brademas	Hawkins	Reuss
Brasco	Helstoski	Robison, N.Y.
Brooks	Holifield	Rodino
Brown, Mich.	Hungate	Rooney, N.Y.
Burlison, Mo.	Hutchinson	Rosenthal
Burton	Johnson, Calif.	Roush
Carey, N.Y.	Jones, Ala.	Roy
Celler	Karth	Roybal
Chisholm	Kastenmeier	Ryan
Clay	Keith	Satterfield
Collins, Ill.	Kluczynski	Schwengel
Conable	Koch	Seiberling
Conyers	Landrum	Sisk
Corman	Leggett	Smith, Iowa
Culver	Long, Md.	Smith, N.Y.
Daniels, N.J.	McClory	Stanton, James V.
Danielson	McCloskey	Steiger, Wis.
Davis, Ga.	McCormack	Stephens
Dellenback	McCulloch	Stokes
Dellums	McFall	Symington
Dingell	McKay	Talcott
Dorn	McKevitt	Thompson, N.J.
Dow	Madden	Udall
Drinan	Mailliard	Ullman
du Pont	Matsunaga	Van Deerlin
Eckhardt	Mayne	Vanik
Edwards, Calif.	Mazzoli	Waldie
Eilberg	Meeds	Whalen
Evans, Colo.	Mikva	Wiggins
Fascell	Miller, Calif.	Wilson, Charles H.
Findley	Mills, Ark.	Wolff
Fish	Minish	Yates
Foley	Mink	
	Mitchell	

NOT VOTING—32

Barrett	Erlenborn	Nichols
Belcher	Gray	Pelly
Bell	Green, Oreg.	Pickle
Bevill	Gubser	Pryor, Ark.
Caffery	Halpern	Skubitz
Crane	Harvey	Stanton, J. William
Dent	Hull	Tiernan
Derwinski	Lloyd	Vigorito
Diggs	Long, La.	Ware
Dowdy	McMillan	Wilson, Bob
Edwards, La.	Minshall	

So the motion to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 191 was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Bevill for, with Mr. Caffery against.

Mr. Bob Wilson for, with Mr. Pickle against.

Mr. Hull for, with Mr. Diggs against.

Mr. Skubitz for, with Mr. Pryor of Arkansas against.

Mrs. Green of Oregon for, with Mr. Pelly against.

Mr. Nichols for, with Mr. Erlenborn against.

Until further notice:

Mr. Barrett with Mr. Ware.

Mr. McMillan with Mr. Belcher.

Mr. Dowdy with Mr. Derwinski.

Mr. Tiernan with Mr. Bell.

Mr. Vigorito with Mr. Minshall.

Mr. Gray with Mr. Crane.

Mr. Dent with Mr. Harvey.

Mr. Lloyd with Mr. Gubser.

Mr. J. William Stanton with Mr. Halpern.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Speaker, pursuant to the provisions of clause 4, rule XXVII, I move that the House now proceed to the immediate consideration of House Joint Resolution 191.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution as follows:

H.J. RES. 191

Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. WYLIE).

The motion was agreed to.

The SPEAKER. The gentleman from Ohio (Mr. WYLIE) is recognized for 1 hour.

Mr. ABERNETHY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman from Ohio yield for a parliamentary inquiry?

Mr. WYLIE. Mr. Speaker, is it on my time?

The SPEAKER. It is; and the gentleman will lose the floor unless he states the purpose for which he yields.

Mr. WYLIE. Mr. Speaker, I cannot yield.

The SPEAKER. The gentleman from Ohio is recognized for 1 hour.

Mr. WYLIE. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. DEL CLAWSON) for debate.

Mr. DEL CLAWSON. Mr. Speaker, a great Senator with more than a little of legislative experience and constitutional interpretation searched for a way to correct the misunderstanding, misconception, and misconstruction of the Supreme Court decision that has led us to this unfortunate situation. Senator Dirksen finally resolved that only a constitutional

amendment could achieve this purpose. His death denied him that goal. But he never once suggested that his proposal altered the first amendment, and it does not.

It will not, and I repeat for emphasis, will not allow any agency of Government having law or rulemaking authority to make any law respecting an "establishment of religion."

It will not sanction a governmental entity formulating the language of a required official prayer, nor require that same be recited by any group of citizens.

It does not deal with nor speak to an "establishment of religion" based on the fact situation in the Engel case.

It speaks only to the free exercise issue.

Some will argue that anyone can still pray in tax-supported buildings, including schools, notwithstanding the "school prayer cases" based on the "establishment clause." The fact remains, however, that the establishment theory has been carried to its logical extreme by inferior courts and the Supreme Court has refused to correct the situation.

Today almost any group recognition of a supreme being in a public school is ipso facto held by the courts to be an "establishment of religion" if a school or other government official in any manner whatsoever acquiesces in the practice, or the use of publicly owned property is involved. This, the American people believe, is a serious misapplication of the sound constitutional doctrine of separation of church and state.

The religious evil the drafters of the Bill of Rights sought to prevent was the "establishment" of an official state church with a clergy as salaried civil servants, with doctrinal dogma approved by the legislature and with property purchased and owned for ecclasiastical purposes by the state. It was to prevent a single sect from becoming preeminent that moved the Founding Fathers to incorporate the "establishment clause" into the first amendment. It is unjust to mingle religious influence with civil government, whereby one religious society is fostered and another prescribed in its spiritual privileges, and the individual rights of its members as citizens denied. However, the very word "religion" in the first amendment for constitutional purposes presupposes that a belief in God was the denominator common to all religions. The "establishment clause" to my knowledge was never contemplated by the founders to compel neutrality by the state among theistic religions, atheism and agnostism. Even more removed from the intent of the founders would be a governmental hostility toward religion that would foster agnosticism and atheism over a belief in God, based on an extenuated theory of the "establishment clause."

House Joint Resolution 191 speaks to "the rights of persons" to participate in prayer in tax supported buildings. This right may be on an individual or group basis. By the widest stretch of the imagination or of legal construction such an exercise could not constitute an "establishment of religion." For a court to hold that the aforementioned practice "constitutes an establishment" would be to warp the obvious meaning of the joint resolution's language and thwart the intent of Congress.

Let us not fall into the trap of, in Biblical terms, being "blind guides, which strain at a gnat and swallow a camel," or fit the description of being a people that "draweth high unto me with their mouth and honoureth me with their lips; but their heart is far from me," and "in vain they do worship me, teaching for doctrines the commandments of men."

Let us reaffirm to the people of this Nation and to the world that expression of faith inscribed above the Speaker's podium, "In God We Trust."

Mr. WYLIE. Mr. Speaker, I yield 2 minutes for purposes of debate only to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I rise in support of House Joint Resolution 191. And I join my colleagues in commending the gentleman from Ohio (Mr. WYLIE) for his untiring efforts to bring this resolution to the floor. Each Member can now be recorded on this most important issue.

I would like to discuss the practical politics of the proposed prayer resolution. Most polls across the country show that from 80 to 85 percent of the people support prayer in public schools and that they want the Congress to pass this resolution. A recent poll conducted by the gentleman from Pennsylvania (Mr. WHALLEY) showed that 94 percent of the people in his congressional district support the prayer amendment.

Most Americans are not interested in the arguments about whether or not the prayer amendment will change the bill of Rights or weaken the Constitution. What the American people are interested in is that the Supreme Court has restricted prayer in public schools and they do not like it one bit. If the people want voluntary prayer in the public schools and we represent the people, then I think we should approve this resolution.

Let us lay our cards on the table. A vote for the proposed constitutional amendment is going to be a lot easier to explain back home than a vote against it. I know that if I vote against the resolution today, my opponent next year will make me do a lot of explaining.

I know of no case where prayer in public schools has hurt anyone—mentally, physically, or emotionaly. In spite of a last minute flurry of activity by a few church leaders against the resolution. I still believe that the people we represent want this measure adopted by a substantial vote. It is up to us to give them what they want.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. COLLINS) for the purpose of debate only.

Mr. COLLINS of Texas. Mr. Speaker, the prayer amendment is essential to provide the individual freedoms that were guaranteed to us by the Constitution.

It is has been vaguely stated by some opposition that the Supreme Court ruling does not prohibit prayer in schools. Case after case has come up since then and the courts rule against religious observance in schools. Reading of any Bible verses went out. Now even religious meditations are out. Let me quote the latest case in a UPI news bulletin from last month on Massachusetts.

> The Supreme Court declined Tuesday to review a Massachusetts school prayer case in which a town school committee dened the Court's 1963 ban by voting to allow voluntary classroom prayer.
>
> The state's highest court held the prayer plan to be unconstitutional and the Supreme Court refused to disturb that decision.
>
> On Aug. 21, 1969, the Leyden, Mass. school passed a resolution providing that a 5-minute period be set aside before each school day to allow voluntary prayer among students and teachers.
>
> In response to an injunction sought by State Education Commissioner Neil V. Sullivan, a superior court judge ruled March 31, 1970, that the Leyden resolution was valid insofar as it applied to students but unconstitutional as to teacher participation.
>
> The entire school prayer plan, however, was struck down as unconstitutional by the State Supreme Court March 2, 1971.
>
> The Leyden committee appealed that decision to the U.S. Supreme Court.

We have all heard of the fine school spirit of children at the turn of this century. Children had respect for their parents, they admired their teachers. No one used drugs. So I got a set of the books that were used. Those were the days of the "McGuffey Readers." They taught children moral lessons to build character. Let me quote from lesson 67 in "McGuffey's Fourth Reader." They took extracts from the Sermon on the Mount and quoted directly from the Bible.

> Blessed are they which do hunger and thirst for righteousness for they shall be filled. Blessed are the merciful for they shall obtain mercy.
>
> Blessed are ye when men shall revile you, and persecute you and shall say all manner of evil against you falsely, for my sake. Rejoice and be exceedingly glad; for great is your reward in heaven.

Decisions become more and more oppressive of religion. The case from DeKalb, Ill., went up to the U.S. circuit court and the Supreme Court's refusal to review gave it affirmation. Because God could not be mentioned under prior cases, the poem simply said "you". But the court said you indirectly referred to God and that must also go. Here is the poem that kindergarten students were denied the right to use. This was their word of thanks before a snack. "We thank you for the flowers so sweet, We thank you for the food we eat, We thank you for the birds that sing, We thank you for everything."

When little children 6 years old are prohibited from saying "Thank you for the birds that sing, thank you for everything" this country needs to restore freedom of speech.

Children go to school and are taught what is right and what is wrong. Now the courts have forced the schools to prohibit prayer in schools as being wrong. There is no justification for courts to be against the first amendment which guaranteed individuals "Religion or prohibiting the free exercise thereof."

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio

(Mr. KEATING) for the purpose of debate only.

Mr. KEATING. Mr. Speaker, today the House has for consideration an amendment to the U.S. Constitution. Amending the Constitution is action which should not be taken lightly and should only be a last-resort approach to lawmaking. In 180 years, for that reason, the Constitution has been amended only 16 times. The time has come again.

The problem before us today was created by a Supreme Court ruling in 1962. Prior to that time it had been held that the first amendment's prohibition of an establishment of religion merely committed the Federal Government to a role of neutrality among the various faiths, that the Government will not take sides. It was never intended for the Federal Government to side with non-religion as opposed to religion which was the logical result of that decision.

While every constitutional amendment must be carefully considered—the issue of school prayer and prayer in public buildings has been avoided too long.

Today the House faces squarely this issue. To vote up or down—aye or nay—the proposed constitutional amendment.

No one can be heard to say this issue has not been adequately discussed both in public and private forums. The House Judiciary Committee held very extensive hearings on the subject. Some Members may not come to the same conclusions as myself—but no one can state that this matter has not been the subject of many hearings and public debate and has been practically talked to death.

Therefore any effort to refer this back to committee can only be construed as an effort to avoid the issue and a failure to meet our responsibility to vote directly on that issue and one of the most important of our times.

Every public opinion poll on this subject clearly shows the will of the American people is contrary to the ruling of the Supreme Court in the Engle case.

It undercuts the traditions of this Nation. In 1784, for example, 3 years before the Constitution was framed. Congress declared in the ordinance creating the Northwest Territory:

> Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be encouraged.

The historical tradition of this country is rich with our acknowledgement of God and our dependence on a Supreme Being. "In God We Trust" appears on almost every official symbol of our Nation. Our pledge of allegiance states that we are "one nation under God".

Each session of Congress begins with a prayer to the Almighty. Our President takes office by swearing his allegiance to this country in the name of God.

How can we participate in this action every day and then say that it is unconstitutional for our children to do the same thing in school.

The above are facts. To deny our religious heritage, to deny our religious tradition, to deny that for most Americans God is a reality, is to create a world of nonreligion, a world of antireligion, and a world of falsity in our public schools.

The prayer the Supreme Court held unconstitutional in 1962 read:

> Almighty God we acknowledge our dependence upon Thee and beg Thy blessings upon us, our parents, our teachers, and our country.

According to the Court this prayer violated the first amendment which prohibits the establishment of religion. I fully support religious freedom for every citizen but I disagree with the conclusion of the Court.

I believe nondenominational prayer should be constitutional and for this reason I am prepared to support the school prayer amendment. Two-thirds of both the House and the Senate and three-fourths of the States must approve this amendment before it becomes part of the Constitution.

I hope my colleagues will join with me today and vote for the amendment.

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

Mr. KEATING. I yield to the gentleman from Ohio.

Mr. BOW. I should like to say that I have heard it said here today that certain congregations are against this amendment.

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

Mr. WYLIE. Mr. Speaker, I yield 30 additional seconds to the gentleman from Ohio.

Mr. KEATING. I yield further to the gentleman from Ohio.

Mr. BOW. Mr. Speaker, if I may continue, I should just like to say that as a member of the Presbyterian Church I think our congregations are for it. It may be the leaders of the church that have been sending these letters out are against it, but I think if there was a poll taken of the members of the congregation you would find they support the amendment.

Mr. KEATING. I thank the gentleman for his comments.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. STEIGER), for purposes of debate.

Mr. STEIGER of Arizona. Mr. Speaker, I, like the rest of you, have received from many members of the clergy letters of concern about this particular amendment, including the rabbi of my mother and father. I would like to point out to you that it was another rabbi who advised me of the fact of the state of Israel having a state religion taught in the public schools has not impinged, in his opinion, upon the freedom of that state, not that he was indicating that he was endorsing a state religion here. My chief concern is for the opinion expressed by the majority leader and the distinguished chairman of the Committee on the Judiciary, who said we should abandon our responsibility as Members of the Congress and accept the will of the Court, because it is the law of the land, and accept the will of a few clergymen who have expressed this opinion, and ignore our constitutional requirement to represent the people who have sent us here.

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

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), for the purpose of debate.

Mr. SCOTT. Mr. Speaker, all of us will agree to the seriousness of the matter under consideration. But since we have received so much misinformation about the prayer amendment, let me reread the pertinent part of the resolution:

> Section 1. Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

You will note it does not grant any affirmative right but merely says that no one shall be denied the right to participate in prayer.

My mail, until recently, was almost entirely in favor of the amendment but opposition has now been generated by organized groups. Their activities remind me of a passage from Matthew to the Pharisees which says:

> Ye blind guides, which strain at a gnat, and swallow a camel.

I would like to share some short excerpts from constituents regarding the resolution:

> First. It is inconceivable that anyone would think that the framers of our constitution intended to prohibit the right of citizens to petition the Lord.
>
> Second. Many children would never have an opportunity to pray or read the Bible if it were not available in school.
>
> Third. It is my view that to deny a child this very critical aspect of his development during a significant portion of his growth is to do a serious disservice to the young person, as well as to the society in which we must live.

To be sure of the feeling within my district, a poll was taken of each home in which the question was asked:

> Should the Constitution be amended to permit voluntary prayer and Bible reading in schools?

The response from more than 30,000 homes was: Yes, 78 percent; No, 17 percent, and no opinion, 5 percent. The present resolution does not include any provision for Bible reading but let me read one of the prayers that has been forbidden to be taught in a kindergarten class:

> We thank you for the flowers so sweet; we thank you for the food we eat; we thank you for the birds that sing; we thank you for everything.

An Illinois court said that this was a State-composed prayer because it was taught kindergarten children by their teacher. *Despain* v. *DeKalb County Community School Dist*, 384 F. 2d 836 certiorari denied 390 U.S. 906. I submit that the kindergarten teacher is more like a mother than a State agent and it seems unreasonable not to permit her to teach children a simple prayer like this.

Mr. Speaker, this has always been a religious Nation. The Founding Fathers were only concerned that there not be a State church. Citizens today want the Constitution amended so that they and their children will have freedom to pray if they choose. Frankly, I wonder if the removal of prayer from our schools has not been a contributing factor to the rise of disorder and permissiveness among young people. We do not want to "strain at a gnat" in this instance but to do what

is right. I urge that the resolution be adopted.

Mr. WYLIE. Mr. Speaker, I yield one-half minute to the gentleman from Texas (Mr. WHITE) for purposes of debate only.

Mr. WHITE. Mr. Speaker, I want to thank the gentleman from Ohio for this time.

Mr. Speaker, in the short time I have, I wish to advise the House that if the previous question is voted down, I will endeavor to change the word "nondenominational" to "voluntary."

Most Members and most of America favor voluntary prayer in public buildings, but the word "nondenominational" is almost impossible to define and is a limiting phrase rather than an expanding phrase.

For example, to say nondenominational prayer in public buildings shall not be abridged nor denied could be construed to outlaw denominational prayer in public buildings, such as with denominational chaplains in the armed services, prayers in Congress and even voluntary denominational prayers at school functions, including private schools receiving public money.

I urge the House to vote down the previous question so we can change the problem word "nondenominational" to "voluntary," and thus make this amendment acceptable to a number of Members, including myself, and do no violence to our present religious freedoms.

Mr. WYLIE. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I rise in support of House Joint Resolution 191.

Mr. Speaker, one of the most precious gifts we can give our children is that of respect for the views of others, even though their views may differ from our own.

We do not, however, want to confuse tolerance with compromise and restrain the assumption of deep convictions.

Our young people must recognize there are strong differences in religious and political positions. They must also learn to respect the views of others and this must be taught.

I cannot concede for one moment a position which will accommodate the atheistic point of view in our American society. We are, indeed, one Nation under God and it is proper to pay homage to Almighty God in every facet of life.

We should in no way attempt to impose on others our personal commitments to our God in situations supported totally or in part by our tax dollars. The public schools, however, are dedicated to acknowledging the whole man and educating the whole man. Every man is both a physical and a spiritual being. In my judgment, all prayer is a public acknowledgement that we are spiritual beings and that we have a spiritual Father.

All children would profit from the exercise of nondenominational prayer in our public schools, recognizing that there are vast differences in our spiritual commitments which must be fully appreciated and respected.

We are now considering an amendment to our Constitution which does nothing more than clarify the establishment clause of the first amendment.

Every technical and legal question which is raised on this proposed amendment can be advanced with regard to the first amendment, if it is so desired. I am not impressed by the maze of technicalities which have been brought into question. I am concerned about the spiritual climate of this Nation. It is wholesome, healthy, and proper for God's blessing to be invoked on any gathering of American people, and more so, where our young people are assembled in a situation to formulate attitudes for life.

Mr. WYLIE. Mr. Speaker, at this point in the debate, I would like to yield for purposes of debate only 30 minutes to the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Speaker, I yield myself 4 minutes.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman from Ohio yield for a parliamentary inquiry?

Mr. WYLIE. Mr. Speaker, I have yielded for purposes of debate only 30 minutes to the gentleman from New York (Mr. CELLER).

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. CELLER. Mr. Speaker, I yield to the gentleman.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. GERALD R. FORD. Mr. Speaker, if the gentleman from New York (Mr. CELLER) yields, he can only yield for purposes of debate; is that not correct?

The SPEAKER. That is the understanding of the Chair.

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

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

Mr. CELLER. I yield to the gentleman.

Mr. McCULLOCH. Mr. Speaker, House Joint Resolution 191 is not good law. It is not good theology. The force of law is not necessary to call forth meaningful, voluntary prayer. It is only necessary to constrain people to pray who do not want to pray. If you and I know that, do you not think God knows that, too?

Mr. Speaker, the first amendment needs no amendment. The protection it accords religious liberty cannot be improved upon. It guarantees to every citizen the right to the free exercise of religion. In furtherance of that object the framers of the Bill of Rights wisely added a further protection: That Government should keep out of religion.

It was obvious to them as it is to me that the right to the free exercise of religion means less the more that Government exerts its influence over religion. And that was in the era of small Government. How much truer is their judgment today in the era of big Government.

The growth of Government takes its price. This harsh fact many are reluctant to face. When the first amendment was written, the school prayer issue was not a problem. For schooling was generally obtained in private institutions, and many of those had a religious affiliation.

But during the 19th century the people of this country decided to supplant the private school as the principal educator with the governmental school. Whereas the members of various denominations formerly sent their children to particular denominational schools, it then become possible to send them to public schools attended by many denominations. Those schools were not and today are not nondenominational. They are, in fact, multidenominational.

History tells better than I the chasmic difference between those two concepts. In the 19th century, some State prescribed "nondenominational" religious exercises for public schools. Since "nondenominational" was then construed to mean "Protestant," schoolchildren professing different beliefs, frankly, were persecuted. Some were punished for not participating. Sharp divisions were produced in communities. In 1869 this led the Cincinnati School Board to ban prayers in its schools in order to put an end to religious strife in the community: Practice proved first amendment theory correct.

School administrators have generally considered their function educational and not religious. The pressure for school prayers has always placed them in the center of the storm. It is no wonder that when, in 1962 and 1963, the Supreme Court held that public schools could not compose or conduct religious exercises, many administrators hoped that these decisions meant much more—that they were required to forbid school prayers. For if that were the case, the educators would be free to teach secular disciplines and avoid divisive religious controversy.

In *Stein* v. *Oshinsky*, 348 F. 2d 999 (1965) the school authorities did just that—they forbade religious exercises during class hours. Such a rule obviously did not violate the establishment clause. But did it not violate the free exercise clause? No, said the second circuit. The court noted the improbability that kindergarten students were praying without teacher supervision and encouragement. But it decided the case on the more general ground that the right to the free exercise of religion, like the right of free speech, is not so absolute that anyone can decide to utter a prayer whenever and wherever he pleases. The school authorities, like other agencies of government, have a right to impose order so that they can perform their function.

The U.S. Supreme Court denied certiorari. As every lawyer knows, that is not an affirmance. Stein is not the law of the land. Some have criticized the case for "having gone too far." It has been suggested that the Supreme Court should have granted certiorari and reversed.

Stein is not some miscarriage of justice but the hallmark of commonsense. Judge Friendly who wrote the unanimous opinion is a sound and respected jurist. If Stein had been decided to the contrary, it would have given the radicals of this country the absolute power to bring the govermental process to a halt. It would

have placed the right to pray anywhere and anytime above the right and duty of government to preserve order. It would have allowed radicals to occupy public buildings, and their prayers would have protected them from arrest.

The individual's right to pray voluntrailly is guaranteed by the first amendment but is not placed above the purpose of the entire Constitution, and that is the creation of orderly government. If the intention of House Joint Resolution 191 is to overrule Stein, as I infer from the debate, then I am constrained to vote against the resolution and in favor of order in government.

I do not believe that our Government should act as our priest, minister, or rabbi. I do not believe that our Government should write prayers or conduct religious devotions. That the first amendment wisely forbids.

I favor voluntary prayers at a reasonable time and place. That the first amendment guarantees.

There is no need to change. It is particularly true with regard to writing constitutional law that when it is not necessary to change, it is necessary not to change.

The impetus for this resolution arises out of mistaken notions of law and prayer. Prayer, to be meaningful, must be a sincere statement of one's beliefs and must be truly voluntary. The kind of prayer that would be said under the resolution would not be meaningful. The nondenominational limitation precludes a sincere statement of personal beliefs. The subtly coercive nature of the classroom prayer exercise precludes truly voluntary prayer. Since force of law is totally unnecessary to cause voluntary prayers to be said, the resolution must be intended to cause some people to pray who really do not want to pray.

This is the crux of the resolution. For prayers forced from unwilling hearts are being merchandised as a remedy for juvenile delinquency.

But it cannot be both ways. If the plan is to transform bad boys and girls by exposing them to prayer, the plan clearly calls for something other than truly voluntary prayer. But if only truly voluntary prayers are authorized by the resolution, nothing is changed and no amendment is necessary.

I sympathize with the sincere hope of the American people for a moral regeneration of society. But morality cannot be legislated. The task is not that easy. I wish it were. Congress cannot accomplish the task which can only be performed by family and church.

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

Mr. CELLER. I yield to the distinguished Speaker.

Mr. ALBERT. I want to subscribe to the remarks just made by the distinguished gentleman from Ohio. Any voluntary prayer, any nondenominational prayer, is not theology. Any interference by any official at any level is a violation of freedom of religion. I am not prepared to let the meddling hand of government at any level in any degree be placed on any man's altar. This resolution should be defeated.

Mr. CELLER. Mr. Speaker, when such church groups as the American Baptist Convention, the U.S. Catholic Conference, the National Catholic Agency of the Roman Catholic Bishops, the Church of the Brethren, the Executive Council of the Episcopal Church, the National Council of the Churches of Christ, the Lutheran Church, the Joint Advisory Committee of the Synagogue Council of America, the National Jewish Community Relations Advisory Council, the United Church of Christ, the United Presbyterian Church in the United States, the American Ethical Union, the American Humanist Association, and the Religious Society of Friends vigorously oppose the enactment of House Joint Resolution 191, should not we Members of Congress take serious note of such objection? When the American Federation of Teachers, when 326 eminent constitutional lawyers from over 60 law schools voice their objection to the enactment of House Joint Resolution 191 as an erosion of the Bill of Rights, should not we Members of Congress take pause before plunging into waters swirling with such crosscurrents?

There are over 200 different religious sects in the United States. More than 80 have over 50,000 members each. The Members of this House belong to some 25 of these sects. It is impossible to devise a meaningful prayer which would be nondenominational or nonsectarian so that it would not invade some basic tenet of religious practice. Some religious groups kneel; some do not. Some groups pray with covered heads; some do not. Some groups consider all public oral prayer as theologically objectionable; some religious groups object to the omission of the name of Jesus Christ.

What, then, is a nondenominational prayer which would not constitute an interference with the exercise of genuine religion? Religion, be it remembered, is by its very nature personal and denominational. It is an outreach of one's soul to the Creator.

In *McCollum* v. *Board of Education*, 333 U.S. 227, Justice Frankfurter made the point that noncompulsory prayer, however it is worded, is compulsory to schoolchildren. He said:

> The law of imitation operates, and nonconformity is not an outstanding characteristic of children. The result is obviously pressure upon children.

A long line of decisions must bring us inexorably to the conclusion that the heavy hand of the state must not be placed upon the personal fibres of religion.

Religion should not be the business of the State. The Supreme Court in its decisions, in fact and in truth, protected the independence and the integrity of religion. In a statement of opposition, a number of national religious organizations and leaders said:

> The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of 'nondenominational' prayer. *We deny* that any elected body or governmental authority has the right to determine either the *place* or the *content* of prayer, as is implied in the proposed constitutional prayer amendment. To authorize government to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make of government a judge of theology. If such a proposed amendment should become a part of the Constitution of the United States, a new religion of 'nondenominationalism' would in a measure become established which could destroy the integrity of both Church and State.

This is not one or another man's individual opinion. The weight of authority in opposition cannot be ignored. The wall of separation between church and state as required by our first amendment to the Constitution must be maintained lest we do injury both to religion and to freedom of conscience.

Mr. Speaker, I place in the RECORD at this point a variety of thoughtful comments I have receiving in opposition to the proposed amendment from noted educators, constitutional authorities and clergymen:

NEW YORK, N.Y.
November 3, 1971.

Hon. EMANUEL CELLER,
Chairman, U.S. House of Representatives, Committee on the Judiciary, Washington, D.C.

DEAR MR. CELLER: You asked for my "advice and experience as to its effect on the public schools and their administration if H.J. Res. 191 should be ratified."

I can foresee little advantage and many disadvantages to public education if the amendment is ratified. There is little reason, on the basis of educational studies, to believe that non-denominational prayer at the opening of the school day, or even throughout the day, would result in serious study of ethical and moral values, or in the establishment of desirable habits of social and individual behaviour. Yet these are the results, I presume, which are sought in the proposed amendment.

There are, on the other hand, solid arguments from history and current experience to oppose such a basic change in our national life. There is no record of agreement by the religious faiths on a definition of non-denominational, to say nothing of agreement on a non-denominational prayer. Yet in practice the amendment would place the public school authorities in the position of having to police the language of a prayer with no criteria for doing so. The result would be divisive in local communities and would probably end in the entanglement of the state in religious affairs against which our history warns us so urgently.

The public schools, and the rest of our society, rely upon the free exercise of religious activities as an essential foundation of our national welfare. To encourage the schools to interfere with these activities will aid neither education nor religion. Indeed it may end in holding up to derision the very act of prayer which the amendment seeks to honor and support.

Sincerely yours,

FRANCIS KEPPEL.

BOARD OF EDUCATION
OF THE CITY OF NEW YORK,
Brooklyn, N.Y., November 4, 1971.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CELLER: I am writing in response to your letter of October 18, in which you asked for comments pertaining to H.J. Resolution 191.

If the intent or effect of the resolution is to authorize prayer in the public schools of this country, I would urge the Congress not to adopt the resolution. This issue has already

been resolved by the Supreme Court of the United States. To revise the issue would serve no useful purpose.

Attendance in the schools is not a matter of choice, but is required by law. To permit prayer in school is, therefore, in essence requiring prayer for many students. This clearly, in my judgment, is an undesirable requirement. The argument that some prayer is "non-denominational" and thus permissible is a specious contention. The overriding factor is not whether the prayer is Protestant, Catholic, Jewish or otherwise, but the propriety of any kind of prayer in public schools whose consumers are compelled to attend. In short, to pray or not to pray is a fundamental right which should not be tampered with by the government. If the supporters of this resolution intend to promote prayer, they would accomplish more in the long run, I believe, by vigilantly keeping the government out of the issue of prayer, rather than trying to legislate for it.

Sincerely,

HARVEY B. SCRIBNER,
Chancellor.

UPA URGES VOTE "NO" ON PRAYER AMENDMENT

The United Parents Associations urges Congress to reject H.J. Res. 191 (Prayer Amendment) and protect the right of individual religious belief.

Your NO vote will be a vote to keep the sanctity of prayer and is for the preservation of religion in our country.

Passage of this amendment would be confusing, divisive and a serious abridgement of the individual rights guaranteed by the first amendment. School children would be particularly vulnerable to pressure contrary to their religious teachings.

The United Parents Associations is the largest federation of Parent Associations and Parent-Teacher Associations in New York City, representing over 450,000 parents of children in the public schools.

BLANCHE LEWIS,
President, United Parents Associations.

STATEMENT OF OPPOSITION TO PRAYER AMENDMENT

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urge you to *oppose* the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly *America*, is an "ill-written, mischievious and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers) specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayed with integrity either by the believers or the unbelievers. It could only become a "pro forma" exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious litreature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution.

J. Brooke Mosley, President, Union Teological Seminary, New York.

Colin Williams, Dean, Divinity School, Yale University, New Haven.

Christopher F. Mooney, S.J., President, Woodstock College, New York.

George W. Webber, President, New York Theological Seminary, New York.

Edward R. Harris, Dean, Philadelphia Divinity School, Philadelphia.

Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tennessee.

Frederick Wentz, President, Hamma School of Theology, Wittenberg University, Springfield, Ohio.

Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.

Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago.

Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.

Louis J. Putz, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.

John H. Tietjen, President, Concordia Seminary, St. Louis.

W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago.

Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.

Marshal L. Scott, President, McCormick Theological Seminary, Chicago.

David J. Draewell, President, Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, South Dakota.

Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Missouri.

Merlyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Illinois.

John L. Knight, President, Wesley Theological Seminary, Washington, D.C.

Albert C. Winn, President, Louisville Presbyterian Theological Seminary, Louisville, Kentucky.

James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pennsylvania.

Walter G. Muelder, Dean, Boston University School of Theology, Boston.

Fred W. Meuser, President, Evangelical Luthern Theological Seminary, Columbus, Ohio.

W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.

Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia.

Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas.

Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.

Beauford A. Norris, President, Christian Theological Seminary, Indianapolis

J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

INDUSTRIAL UNION
DEPARTMENT, AFL–CIO,
Washington, D.C., November 4, 1971.

DEAR CONGRESSMAN: This is a plea to Congress that it not meddle with the Bill of Rights. These amendments are the building blocks which sustain our pluralistic society. It is this belief in the virtue and verity of the Bill of Rights which leads us to urge you to vote against the Prayer Amendment (H.J. Res. 191).

Among the most treasured heritages we possess is that of religious freedom. Since the inception of our country, we have retained this right to its fullest. It has been working. It remains unquestioned even in these troubled times. Since this is the undeniable fact why tamper with the Constitution which has so steadfastly guaranteed and made possible this freedom?

We are impressed that all the major religious denominations join in opposition to H.J. Res. 191. They recognize that the task of sustaining the religious spirit in America is deeply individual and essentially private; that it cannot be nurtured by government edict, government preparation of "non-denominational" prayers, by government intervention in the religious lives of children. They realize that the Supreme Court decisions in this area leave religion where it rightly belongs, in the home and our religious institutions, the responsibility of parents and members of the clergy. We subscribe to the sentiment expressed in a recent editorial in a religious publication which noted:

"This amendment is hardly the way to promote a revival of true religion . . . genuine piety is fostered not by government . . . but by families and individuals who practice reverence and obedience to Him in all their activities and associations."

Finally, a point of great consequence . . . there has never been a revision of the Bill of Rights in the long history of the Constitution. And for sound reason—the Bill of Rights has worked effectively for the people. To start the process of tinkering with these basic amendments would be to embark on a gravely dangerous adventure. It would encourage the alteration of the Bill of Rights every time a Supreme Court decision did not meet with overwhelming favor. And this would indeed be calamitous.

In short, we ask your support of the Bill of Rights and respectfully suggest that you will best serve the American hope by voting against H.J. Res. 191.

Sincerely,

I. W. ABEL,
President.

[From the Los Angeles (Calif.) Times, Oct. 31, 1971]

ON SCHOOL PRAYER—A THREAT TO RELIGION

(By Philip B. Kurland)

Certainly the American people can, by constitutional processes, choose to allow compulsory prayer ceremonies in their public schools. That is what the proponents of the constitutional amendment now pending in the House of Representatives are seeking to accomplish.

But before the American people or their representatives make that choice, they ought to be informed of the issues so that the choice may be a reasoned one and not simply a matter of emotional response to irresponsible rhetoric. The question is not whether we "restore God to the classroom."

The proposed amendment, House of Representatives Joint Resolution 191, is itself short if not clear. It reads: "Nothing contained in this Constitution shall abridge the rights of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

While the language is vague, its apparent purpose is to permit schools to impose a requirement of prayer ceremonies on students, although it could be interpreted to allow students who dared to do so to remove themselves from the company of their fellows while such school exercises took place. There is also a negative pregnant in the proposed language that could expand the present constitutional inhibition. Should the amendment become law, *denominational* prayers in legislative halls and executive mansions would become at least constitutionally suspect.

The reason for the existent constitutional rule that now prevents such school ceremonies was stated by Mr. Justice Frankfurter in his opinion in McCollum v. Board of Education.

"The secular public school did not imply indifference to the basic role of religion in the life of the people, nor the rejection of religious education as a means of fostering it. The claims of religion were not minimized by refusing to make the public schools agencies for their assertion. The nonsectarian or secular public school was the means of reconciling freedom in general with religious freedom. The sharp confinement of the public schools to secular education was a recognition of the need of a democratic society to educate its children, insofar as the State undertook to do so, in an atmosphere free from pressures in a realm in which pressures are most resisted and where conflicts are most easily and bitterly engendered. Designed to serve as perhaps the most powerful agency for promoting cohesion among a heterogeneous democratic people, the public school must be kept scrupulously free from entanglement in the strife of sects. The preservation of the community from divisive conflicts, of Government from irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home, indoctrination in the faith of his choice."

But, say the supporters of the proposed amendment, these defects implicit in the utilization of the public academy for instilling religious faiths are not relevant to the proposed amendment. First, they say, because there is no coercion on the public school student authorized by the amendment. Second, they say, because the only prayers authorized are "nondenominational" prayers, thereby eliminating fear of sectarian conflict.

Neither answer is accurate. There is coercion and there is an invitation to sectarian strife. For we must remember that if public education is free it is also compulsory except that students may attend private schools, most of which, at the elementary and high school level, are religiously controlled.

The coercion may be more subtle than physical compulsion to be present during the engagement in these exercises. As the same justice pointed out in the same case:

"That a child is offered an alternative may reduce the constraint; it does not eliminate the operation of influence by the school in matters sacred to conscience and outside the school's domain. The law of imitation operates, and non-conformity is not an outstanding characteristic of children . . ."

That there will be sectarian strife is almost as readily assured. What is a "nondenominational prayer"? Who will frame it? What religions can accommodate their teachings to it? As the American Council on Education noted some years ago: "The notion of a common core suggests a watering down of the several faiths to the point where common essentials appear. This might easily lead to a new sect—a public school sect—which would take its place alongside the existing faiths and compete with them." De we want a state religion? No one reading today's newspaper headlines should think so.

At least some leaders of some of the churches recognize the dangers and deplore the possibilities of "nondenominational prayer." In 1962, Father Gustave Weigel, a learned Catholic student of the problem, pointed out: "The moral code held by each separate religious community can reductively be unified, but the consistent particular believer wants no such reduction."

And the official magazine of the United Presbyterian Church said at the same time: "If you have faith-in-general, you have no faith to speak of Faith has to be something-in-particular. A nondenomination prayer is doomed to be limited and circumscribed. If prayer started soaring, it starts to be controversial, which is the one thing a nondenominational prayer dares not to be."

The Supreme Court, in the Vitale case, which the proposed amendment seeks to overturn said: "It is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Are the American people, who have already turned over control of so much of their activities to government, prepared to reject this precept about the proper role of government in specifying religious activities? Thoughtful evaluation rather than visceral action suggests that the Vitale rule is one of the bulwarks of America's freedom from the ills that continue to plague those countries where "toleration" rather than "freedom" is the guide to government action in the field of religion.

If, as has been suggested, the churches are losing their holds on the minds and hearts of young Americans, they will not be succored by rote recitations of "nondenominational" prayers which can reflect neither the words nor the spirit nor the teachings of any religion. "Nondenominational" prayer will not "restore God" to the classroom; it mill degrade religion not exalt it.

If this is what the American people want, but only then, they should support the proposed amendment. If they have any notion of the real meaning of religious belief and our history of developing religious freedom, they will recognize the proposed amendment as antireligious, not pro-religous.

At best, the proposed amendment invites state-imposed religious dogma and religious strife; at worst, it assures them.

CATHOLIC CONFERENCE OPPOSES "PRAYER AMENDMENT"

WASHINGTON.—The U.S. Catholic Conference has gone on record in opposition to the so-called school prayer amendment, which is currently before the House of Representatives.

The Conference's position was announced by Bishop Joseph L. Bernadin, U.S.C.C. General Secretary, who said:

"I wish to emphasize that the Conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools.

"Our opposition to this amendment is based cn the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer."

The text of the proposed constitutional amendment, on which the House is expected to vote November 8, states:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer."

Bishop Bernadin said:

"The subtle implication of the amendment, therefore, is that 'denominational' prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.

"Moreover," Bishop Bernadin continued, "the amendment cannot be justified as a 'school prayer' amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the school prayer cases."

"Passage of the amendment," he added, "might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved."

THE FIRST PRESBYTERIAN CHURCH
Scottsburg, Ind., November 4, 1971.

EMANUEL CELLER,
Chairman, House Judicial Committee, House of Representatives, Washington, D.C.

DEAR MR. CELLER: It is my hope that the House of Representatives will reject the Prayer Amendment proposal.

In our pluralistic society I believe it is better not to have scheduled group prayer on a regular basis in public school classes.

If prayer is sincere, its expression aloud also has elements of indoctrination or it is meaningless ritual and in the classroom should be omitted for either reason!

The public schools should not be used by religious people to "reach the unreached." Our churches and families have their own ways of expressing worship and should in our own way fulfill the God-given responsibilities.

It would be my hope that generally teachers are persons of religious faith who participate in the worship and activities of their own group, and that they evidence and encourage in their students due regard for the beliefs of others.

Sincerely,

WILLIAM H. HEILMAN.

SOUTH METRO BAPTIST ASSOCIATION,
Jonesboro, Ga., November 3, 1971.

Representative EMANUEL CELLER,
Chairman, House Judiciary Committee,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CELLER: In the Atlanta (Ga.) Constitution this morning, I learned of your leadership in connection with the proposed "prayer amendment". It seems to me that the statement from the law school deans and professors is extremely significant.

I have made serious effort to look at the contents and ramifications of this proposed "prayer amendment". In my judgment it is dangerous. I believe that it will multiply our problems. What is a nondenominational prayer? Who would write them? Who would approve or disapprove them? I have genuine fear for any move that puts the Government in religious matters. These things should be left to the various religious groups.

The "prayer amendment" would weaken the First Amendment. This, in my judgment would not be wise. Religious training and practice belong to the homes and the religious groups. I sincerely hope that these responsibilities are not turned over to the Government through the schools on any level.

With appreciation and best wishes,

Cordially yours,

L. S. WILLIAMS.

Mr. CELLER. Mr. Speaker, I quote from an editorial in the Catholic Times of October 10, 1971:

The bill in question had remained in committee because no one could resolve the question, "What does a non-denominational prayer look like?" The answer is, of course, no one knows, because it is impossible to

compose a prayer that is not denominational.

If this amendment is proposed congressionally and ratified so that someone or some group is authorized to compose an accepted set of "non-denominational prayers," it could provide one of the biggest controversies this country has ever witnessed. It would bring up the question of the civil government meddling in the affairs of religion. The official recognition of certain prayer formulas would also carry the connotation of establishing a kind of religion.

At this point, I want to read to this body the statement filed by 326 eminent constitutional authorities:

OUR MOST PRECIOUS HERITAGE

Our Bill of Rights is America's most precious heritage. For a century and three-quarters it has spread the mantle of protection over persons of all faiths and creeds, political, cultural, and religious.

Under our system, special responsibility for the interpretation and application of the Bill of Rights rests with the Supreme Court. In discharging this responsibility the Court has from time to time handed down decisions which have aroused considerable controversy. Some of the decisions have been subjected to strong criticism and even condemnation. There have, no doubt, been decisions which have been deemed by a majority of the American people, at least in their immediate reaction, to have been unwise, either in the conclusion reached by the Court or in the manner by which that conclusion was reached.

It may be that the Court's 1962 and 1963 decisions against state-sponsored prayer and devotional Bible reading in the public schools belong in this category. If so, it is much too early to judge whether it will be the popular judgment or the Court's that will be vindicated by time. But whichever the case, we are convinced that it would be far wiser for our nation to accept the decisions than to amend the Bill of Rights in order to nullify them.

We recognize that the Constitution provides for its own amendment, and that no provision of it, including the Bill of Rights, is immune to repeal or alteration at the will of the people expressed through the medium of constitutional amendment. Yet, it is relevant to recall in this respect the concluding paragraph of Thomas Jefferson's great Virginia statute for Establishing Religious Freedom:

And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural "right."

American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable. If now, for the first time, an amendment to "narrow its operation" is adopted, a precedent will have been established which may prove too easy to follow when other controversial decisions interpreting the Bill of Rights are handed down. In the past, the Court has construed the provisions against infringement of the free exercise of religion and of speech and assembly, or securing the privilege against self-incrimination, or requiring fair trial procedures, in a manner deemed by many at the time to be unduly restrictive of the proper powers of government. It is certain that it will do so again in the future. If the first clause of the Bill of Rights, forbidding laws respecting an establishment of religion, should prove so easily susceptible to impairment by amendment, none of the succeeding clauses will be secure.

A grave responsibility rests upon the Congress in taking this "first experiment on our liberties." Whatever disagreements some may have with the *Bible-Prayer* decisions, we believe strongly that they do not justify this experiment. Accordingly, we urge that Congress approve no measures to amend the first amendment in order to overrule these decisions.

The growing awareness of the American people has resulted in my receiving communications from all parts of the country expressing opposition to the enactment of House Joint Resolution 191. I am sure that this has been the experience of all my colleagues. Religious conviction is passionate, not pallid.

It is my fervent hope that the apparent simplicity of the language of House Joint Resolution 191 will not lull us into overlooking the depths into which we can sink should this resolution be adopted.

Mr. REID of New York. Mr. Speaker, will the gentleman yield?

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

Mr. REID of New York. Mr. Speaker, is not the fundamental question here the total separation of church and state, and would not even voluntary prayer involve the state in the sponsoring of a religious exercise by its providing classroom space and designating a period during official school hours for prayer?

Mr. CELLER. There is no question about it, because a prayer would have to be superimposed, authored from above, and that means a principal or a superintendent or board of education or a Governor of a State, and that means the state interfering with religion, interfering with prayer, and legislating prayer.

Mr. REID of New York. And this would be the first time we tampered with the Bill of Rights and attempted to break down the total separation of church and state?

Mr. CELLER. The gentleman is correct.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Speaker, I come to this well with a heavy heart and with deep concern. I reflected that concern every day since the discharge petition had enough signatures to come to the floor. I think I do not submit my credentials about my faith, my belief in prayer, and the Bible and God. The record is pretty clear.

Let me, using the words of the author of this amendment, point out the danger. Fortunately the gentleman from Florida asked some pertinent questions and penetrating questions of the gentleman from Ohio. Let me just quote briefly to show how dangerous the adoption of the amendment would be. The first question was addressed to the gentleman from Ohio (Mr. WYLIE) the author, and reads:

Who is to determine what is a denominational prayer?

Mr. Speaker, we of the opposition could not state our position more clearly than the gentleman from Ohio in what he has said. Listen to the answer. He said:

The local school board authorities will determine what the denominational prayer should be, and if the school board abuses their authority, the matter would be subject to judicial review.

Mr. Speaker, I ask when in all the history of America, since the approval of the Bill of Rights, has it been the position and business of government to determine the content of prayer for people anywhere?

Finally, Mr. Speaker, a religious experience to be acceptable to God and to be worthy of the name must be a completely voluntary response to God. The powers of government in whatever form it may take, limited or unlimited, must not be used in an attempt to force people to be religious. History records that people do not respond to compassion for religion by the State. The whole question must be left to the power of the Holy Spirit, the persuasion of love, and the dynamics of personal responsibility.

Mr. Speaker, I would have my colleagues reflect on history, on the contributions of Jefferson and Madison and Washington. Consider our religious heritage of freedom of religion, under which the church in America has become great—greater than any of our pioneers had a right to expect.

Mr. Speaker, ever since the sponsor of House Joint Resolution 191 received a majority necessary for discharge of the committee, I have had a concern about the effect this amendment would have on one of the great bulwarks of freedom—the freedom of religion, the freedom of conscience, and religious liberty. This concern is reflected daily in the CONGRESSIONAL RECORD since that time.

Mr. Speaker, it appears to me, and I have the support of the most competent legal minds I can find, that the adoption of this amendment would, indeed, do violence, if not repeal, the first amendment of the Bill of Rights. Indeed, it is my feeling that if certain judicial decisions that are possible were made, it could very well effect adversely another part of the first amendment and this is one that deals with freedom of speech. Mr. Speaker, no one, I believe, can successfully challenge my dedication to, appreciation of, and convictions on religion. I am a professing Christian. All my life I have attended, worked with, and contributed to the Baptist denomination. I have also worked with, through ecumenical movements, the programs of all other churches. My father taught me to respect all other denominations and to seek no converts from other religions, but seek only to convert those who apparently have no religion.

In this area, that is Congress, I am a member of the prayer group that meets every Thursday morning. I have never missed a meeting when I was in town except for once when I was ill and I have the evidence because I have taken notes at every meeting. This is where we have, in my opinion, religion at its best for among our members, we have found every major and minor faith in America including one regular attender who was a Buddhist. It is a wonderful example we

set here with this voluntary prayer group that meets in the Capitol every Thursday morning when Congress is in session.

Never a week goes by, Mr. Speaker, but I am found at some moments several different times in the prayer room. I believe in prayer, I pray daily in my home and at work. I have collected 17 of what I think are the most meaningful and needed prayers and carry them with me daily. Now, whether I make it to Heaven may be questioned, but no one can successfully, I repeat, challenge my feelings for and about religion.

Mr. Speaker, the best argument against the amendment comes from the author of the amendment, the Honorable CHALMERS WYLIE of Ohio, in his House Joint Resolution 191. It is clearly revealed in his response to 23 questions propounded by the distinguished Congressman from Florida (Mr. GIBBONS).

In this series of questions, it becomes crystal clear what the author intends. He said that some Government authority would tell us what to pray, in what manner—aloud or silently—and where to pray. Let me just dwell briefly on a few of the questions and, Mr. Speaker, I have dealt with them in some detail on November 4 and they may be read and seen in the CONGRESSIONAL RECORD of that day beginning on page 39383.

Let me just call attention to a few of these questions to show how dangerous the adoption of this amendment would be. The first question addressed to Congressman WYLIE, the author, reads:

Who is to determine what is a nondenominational prayer?

Mr. Speaker, we of the opposition could not state our position more clearly than the gentleman from Ohio has stated. Listen to the answer. He said that:

The local school board authorities will determine what the nondenominational prayer should be and that if the school abuses their authority, the matter would be subject to judicial review.

Now, Mr. Speaker, I ask when in all the history of America and since the approval of the Bill of Rights has it been the position of government to determine the content of the prayer of the people?

Mr. Speaker, we now go to the fourth question. The question is "May it be given outloud or silently?" Again, we see the strong arm of governmental authority in prayer when we read the answer from the gentleman from Ohio. He said:

The manner of praying should be left to the judgment of the local school authorities.

I have always been led to think and I believe that it is to be the religious needs of the school pupils that are being provided for by the amendment. Now we are told that the school board will decide and so it comes out that they would not be allowed to pray according to their own wishes, but according to the wishes of the local school authorities.

Mr. Speaker, I commend the reading of the questions and answers, all 23 of them, by every Member who must vote on this very important amendment and when I cite to you the response to the seventh question, it should shake the thinking and the complacency of every Member of this House and every citizen of America. It is the seventh question asked by Mr. Gibbons:

Would your amendment allow police or judicial action to prohibit a prayer in a public building because it did not meet the interpretation of being a nondenominational prayer.

"Of course," answers the prayer amendment sponsor and my response, Mr. Speaker: Shades of the Dark Ages, I would never have imagined that in our land of the free we would ever be faced with this judicial or police authority to determine the contents of our prayers. Mr. Speaker, for the sake of our children, for the sake of voluntary prayers, for the sake of what is best for all religions, yes indeed, for God's sake, let us defeat this perverse prayer amendment and continue our protection against governmental intrusion into our prayer life and for further evidence, I recall for you the 15th question:

Would you please define prayer as used in your resolution. Is it to be silent? oral? or in unison? To whom is it to be addressed? God? Jesus? Our Father? May it end with the words, In Jesus name we pray. Amen?

Here again Mr. WYLIE clearly indicates governmental authority in drafting the content and format of the prayer. His answer reads:

The content and format of the prayer would be determined by the people and appropriate authorities.

Mr. Speaker, one of the things that bothers me in this amendment is its reference to prayer in any public building which is supported in whole or in part by the expenditure of public funds. The promoters of this amendment are saying "this is for prayer in schools," but even a close glance at the amendment shows that it has no broader scope than to prescribe and proscribe worship in the public schools. The amendment does not even mention public schools, but impresses within its scope nondenominational prayer within all public buildings throughout this Nation. The words "lawfully assembled" in the proposed amendment would give purpose to every thoughtful citizen this yoking of "State-approved nondenominational worship" with the qualifications that it be conducted in a "lawful assembly" has omnibus overtones to those who believe that there cannot be any such thing as "unlawful assembly" for those who come together to worship God. Of course, the amendment applies only to persons lawfully assembled in any "public building." But what is a "public building"?

Mr. Speaker, the amendment goes on to define it as one "which is supported in whole or in part through the expenditure of public funds." Now I ask, Are church buildings "public buildings"? They are so classified in the building codes and safety and fire regulations of most cities and States. The churches certainly are supported in part by public funds in that they are given tax exemptions and free public services such as fire and police protection which is essential to their function. The Wylie amendment may place, and some would say does place, in dire jeopardy the freedom and independence of all churches in America since it applies only "nondenominational" worship may lawfully be offered in "public buildings" in this country. Mr. Speaker, under the definition given in this amendment, church buildings are "public buildings."

Mr. Speaker, a brief time like this does not allow adequate time for debate on all the implications of this amendment. There are some side effects that worry me. These side effects will bring about great divisions in our communities. I see the prospect of school board members refusing to run for school boards because they do not want to make the decision of what is a "nondenominational prayer" or contesting each other on who can write the best "nondenominational prayer."

Here are a few other side effects:

First. It denies the principle of voluntarism in religion by restricting the kind of prayers people can participate in and by giving the Government authority to determine the content of the prayers that people can voluntarily pray in public buildings.

Second. It introduces a religious divisiveness into the life of the Nation that could result in serious national disunity along religious lines. The religious groups themselves have never been able to achieve a consensus on a definition of prayer, much less "nondenominational" prayer. Some arm of Government will now have to make that determination, if the amendment becomes part of the Constitution.

Third. The amendment creates a situation for school administrators that will be difficult or impossible to resolve in many cases.

Fourth. The new principles of constitutional law put into the Constitution by this amendment will affect future actions of Government relating to religious practices—judicial, legislative, and executive—in ways that cannot now be predicted.

Fifth. The amendment could affect the religious practices in any building that is built in whole or in part by public funds—a school, a hospital, a day care center, nursing home, a children's home, and so forth. The limits of nondenominationalism could be imposed in all such buildings.

Sixth. The amendment authorizes by constitutional law a perverted form of nebulous religion—nondenominational prayer.

An equally incisive analysis was presented by the American Jewish Congress:

All guarantees of freedom would be endangered by any move to tamper with the Bill of Rights.

This proposal has been before the United States Congress for a number of years. The fact that it has not been adopted is almost certainly attributable to the broad recognition by the American people that the guarantees of the Bill of Rights, and particularly those of the first amendment, are not and should not be subject to amendment.

Once the principle is established that the Bill of Rights can be amended, the way will be open to other limitations of basic liberties such as freedom of speech, press and assembly.

The Constitution does not prevent any individual from praying as he chooses. But as interpreted by the Supreme Court it does restrict—and should restrict—government dictation of or participation in prayer.

The effect of the amendment would be to trivialize religion and destroy the function of prayer as a sacred communication.

On the other hand, any effort to give public prayers real meaning would divide the population along religious lines. Diversity of religious belief is necessarily reflected in diversity of belief in the matter of prayer.

Any prayer that truly represents the theology of one religious sect will necessarily conflict with other theologies.

Mr. Speaker, support for the opposition has grown steadily and surely. Whatever the outcome here, this amendment will not become a part of the Constitution for I have confidence in the American people. They will see the dangers and those who are its most enthusiastic supporters will lose heart and change their minds for the people will have freedom of religion and freedom of conscience and will insist on religious liberty.

Mr. Speaker, the fight for religious freedom began really in Virginia. The fight for religious freedom in the Virginia Legislature was a long one, a hard one, and a bitter one. Eventually, by 1784, all favoritism laws had been repealed and most of Jefferson's original draft of the "Act Establishing Religious Freedom" had been adopted. In the preface to the bill, Jefferson sets forth his arguments for religious liberty: First, compulsion makes people not Christians, but hypocrites. Second, no man is competent to judge the religion of another. Third, religion does not need the support of a government to enable it to overcome error. Fourth, it was not God's plan to force man into obedience. Fifth, a religion of love, not a religion of force, should prevail.

Mr. Speaker, a religious experience to be acceptable to God and to be worthy of the name must be a completely voluntary response to God.

The powers of government in whatever form it may take—limited or unlimited—must not be used in an attempt to force people to be religious. History records that people do not respond to compulsion for religion by the state.

This whole question must be left to the power of the Holy Spirit, the persuasion of love, and the dynamics of personal responsibility.

Mr. Speaker, I would have my colleagues reflect on history and consider the religious heritage of freedom of religion under whichever church, no matter how small, has an opportunity to be and to be heard. Let us protect this cherished religious liberty and religious freedom. The lesson of history, my colleagues, cries for a "No" answer to this amendment in whatever form.

I plead with my colleagues, I beg of you to consider our history.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, while I speak in strong opposition today to the Wylie amendment I am fully aware of the deep concern which millions of Americans have concerning the absence of religious instruction in the public schools of this country. Changing the Bill of Rights, however, is not in my judgment any solution to the problems observed by those who feel that a deeper religious element should be present in our public schools. For these sincere persons there are two constitutional ways by which their objectives can be carried out. All children in America can participate in released-time or dismissed-time religious education off the premises of the public school. This arrangement was declared constitutional by the Supreme Court in 1952. All schools, furthermore, have the right, as declared by the Supreme Court when it outlawed Bible reading and sectarian prayers, to teach about religion in an objective impartial way.

I am opposed to House Joint Resolution 191 for three fundamental reasons:

First. There is no satisfaction definition of the term "nondenominational." Even if, furthermore, the particular term "nondenominational" is omitted from the proposed amendment to the Bill of Rights any prayer sought to be justified under the first amendment of the Constitution must in the nature of things be nonsectarian or "subdenominational" or "sub-Christian." The very concept of prayer seems inevitably to include a theistic element. It is precisely because of this element that any prayer must be deemed to reflect the theology of a particular group and is consequently denominational or sectarian.

I oppose the Wylie amendment because it invents a new type of prayer. The prayer to be sanctioned by House Joint Resolution 191 is apparently some form of State-composed or at least State-endorsed supplication to God.

If there is anything that the first amendment was designed to prevent it is the Government in America assuming or asserting anything with regard to religious or theological orthodoxy.

Today for the first time in all of American history the proponents of this incomprehensible amendment want to alter the first amendment so that apparently American citizens may participate in the recitation of some governmentally "nondenominational" prayer. I can think of no greater assault by the State upon the church.

Second. Those who vote for the Wylie amendment today will be voting against the eloquently stated opinion of virtually all of the churches and synagogues in America. If all or some of the churches and synagogues were asking the Congress to authorize some form of prayer in the public schools I would hope that we would remind the churches and synagogues that the first amendment states categorically that "Congress shall make no law respecting the establishment of religion." But when all of the religious bodies in America urge us today not to approve the Wylie amendment by what strange logic do we think that we can or should defy all of the religious organizations of this Nation?

It is most significant that for the first time in all of American history the American Catholic bishops, speaking through the U.S. Catholic Conference, have spoken out on this subject. The bishops have emphatically and categorically opposed the enactment of the Wylie amendment and the alteration of the Bill of Rights.

If some or all of the public school educators in America were asking the Congress to authorize some form of prayer in which schoolchildren could participate I would be opposed to the Congress acting on such a request. Educators in America are, however, opposed to the Wylie amendment. How then can this House pose as the national self-appointed school board of the country and arrogantly authorize a prayer not sought for, but indeed rejected by the educators of this country?

The Members of this House who must concede that the religious and educational leaders of this country do not want this amendment allege that the parents of some 40 million schoolchildren want an opportunity when their children can pray. There is no evidence for this allegation present before this body today. Indeed, even if we did have some evidence along this line gathered by a committee of this Congress I would be even more reluctant to amend the Bill of Rights in order to assist those parents who desire to have their Government inculcate the piety which these parents are apparently unable or unwilling to give to their own children in their homes and in their churches.

Even if, however, millions of parents were begging the Congress to alter the first amendment so some form of prayer could be allowed in the public schools I would hope that we would resist this outcry and urge these people to seek their remedy not by changing the Constitution but by seeking to persuade a majority of the members of the U.S. Supreme Court that the Nation's highest tribunal wrongly decided this issue in 1962 and in 1963. When we have before us here today virtually no evidence of any widespread desire on the part of parents to have their children participate in some form of prayer in the public schools how can we assume that this body, with no committee report and no hearings, can emerge from a very short debate with a formula which supposedly will resolve the problem which we have not understood and satisfy the parents from whom we have not heard?

Third. There is one overwhelming reason why some Members of this House feel that they must vote for the Wylie amendment today. That reason is fear of the political consequences of a vote which opponents in a forthcoming election could allege to be a vote against God, against piety and against morality.

I have talked with a large number of the Members of this House. One Member told me categorically that he expects to vote for the Wylie amendment because he does not want to bother explaining to constituents and others for the next several months why he voted "against prayer."

Members of this House and of the U.S.

Senate have seen a vote against the Dirksen amendment and against the Becker amendment used by political opponents presumably to their advantage.

The vote today, however, is different from a vote on either of those proposed amendments. Those amendments sought directly to reverse the decisions of the U.S. Supreme Court and to allow openly sectarian prayers in the public school. Today's proposal does not seek to restore true religion to the public school. Today's amendment seeks to create an ersatz religion. Today's proposal in short suggests that the Government in the person of the teacher, the school board or the courts move in upon our public schools by certifying or approving that a particular prayer is indeed "nondenominational." A vote against the Wylie amendment by a person who voted for the Becker amendment is entirely consistent. The Wylie amendment is actually a proposal to outlaw all sectarian or denominational religion from the public schools forever. Even worse, however, the Wylie amendment states that the public schools, while outlawing all real religious exercises now engaged in by Americans, must invent, import, and establish some novel religious exercise not taken from any one individual denomination but gathered from all religions into a composite prayer unacceptable to the members of all denominations but acceptable to the Government which has sanctioned the practice.

I have talked with some Members of this House who say that they feel that the people of America should have the opportunity to decide whether prayer should be offered in schools. If there were any substantial evidence that people all over the country felt strongly enough about the necessity of prayer in public schools that they desire to amend the Bill of Rights to achieve such an objective, the contention that the people have a right to decide would have some merit. But is there any evidence whatsoever that there is any ground swell of opinion suggesting that any significant number of people desire for the first time in American history to alter the Bill of Rights to permit the recitation of nondenominational prayers in public places?

There is no ground swell of opinion for this amendment as there clearly was for the reduction of the age at which people can vote or for the amendment recently passed by this House to extend equal rights to men and women.

It is significant to note, furthermore, that if this House and the U.S. Senate passed the resolution before us today by a two-thirds vote it will not be the people of America who will make the further decisions but the legislatures of three-fourths of the States. In all candor the Members of these legislatures will be threatened, as I am afraid some Members of this House are today threatened, not by a majority, not by a well-informed and rational lobby, but by a tiny minority of shrill persons who have sought to intimidate me as they have sought to intimidate every Member of this House.

By reason of my profession I would be inclined to be sympathetic to any measure which would enhance religious freedom and maximize its exercise. But I have never had the slightest hesitation in being opposed to the Wylie amendment. It will not enhance the free exercise of religion nor will it do anything to advance religion. Indeed I think it can be enormously detrimental to the substance and spirit of religion in America. It would be detrimental because the amendment before this House today would for the first time in all of American history commence the creation of State composed and State endorsed prayers. I will not elaborate on the disastrous consequence of the adoption of the Wylie amendment but I am more and more persuaded that it would be the intrusion by the State into the affairs of religious bodies in a way unprecedented in America.

The Wylie amendment cannot be made acceptable by the alteration of any words or by the insertion of the term "voluntary." Regardless of the phrasing used the inevitable and inexorable thrust of the Wylie amendment is the creation of a new religion in America—a religion unknown to the churches and synagogues and people of this country.

The adoption of the Wylie amendment would be a major disaster. I implore you to vote it down.

Mr. WYLIE. Mr. Speaker, I yield to the gentleman from California (Mr. SCHMITZ).

(Mr. SCHMITZ asked and was given permission to revise and extend his remarks immediately after the remarks of the gentleman from Massachusetts (Mr. DRINAN).)

Mr. SCHMITZ. Mr. Speaker, the reason I wanted my remarks included after those of the gentleman from Massachusetts (Mr. DRINAN) is that his comments led many of you to believe that the approximately 200 Catholic bishops of the United States have come out in opposition to the amendment to permit public prayer in public schools. When this position attributed to the bishops appeared in the press, being a Catholic layman, I called the U.S. Catholic Conference office to find out how many bishops were consulted on this question. Mr. James Robinson, who is in charge of government liaison at this office, told me at least a half dozen times in answer to different questions that Bishop Bernardine who is the general secretary, was authorized to speak on behalf of the bishops.

I said, "How many bishops did you consult?"

Finally, after long questioning, he admitted he did not know. I then called Bishop Bernardine's secretary and she said, "Five—the members of the Executive Committee." I could give you the names of them.

The following telegram sent to Congressman WYLIE November 4 by the editor of the national Catholic newspaper the Wanderer should help set the record straight:

> We are in full support of your bill on the prayer amendment. State legislators should have opportunity to consider amendment and reflect sentiment of their constituents. As editors of catholic newspapers with 50,000 nationwide circulation can assure you most of our readers support Wylie bill.
>
> Do not be confused with alleged opposition of catholic church on this issue. Statement of opposition by U.S. Catholic Conference was signed by five prelates (two of whom are at the synod in Rome) who were sent the statement by mail. The Wanderer, in a quick spot check with seven other prelates found that none of them had been consulted on the issue or were even aware such a statement was being considered.
>
> As Catholics and citizens we resent the efforts by self-willed individuals to presume to imply to speak for us or to influence pending legislation by less than candid means. We must ask: who are these faceless people who are so determined to deny the American people an opportunity to be heard on an issue of such vital interest?

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. WIGGINS).

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

Mr. Speaker, the Members know my views on this matter, and I shall not belabor the point, but I believe I should comment on some matters which seem to be concerning the membership.

One is that this measure is said to be desired by an overwhelming majority of the American people. I do not question that statistic, but we are not talking here about the rights of majorities at all; rather, we are talking about the rights of one person. That is what the first amendment is all about. That is what the Bill of Rights is all about—to protect an individual against the coercive power of Government, to protect the unpopular minority from the will of the majority.

It has been said, however, that if these prayers are truly voluntary somehow the individual right will be protected. But what is "voluntary" and what is not will be a question of fact to be determined by the trier of fact.

I believe some of these questions might well be asked as bearing on the issue of "voluntary":

Was the prayer exercise conducted by a teacher? What is the age of the participants? Was it conducted in a classroom? Was it conducted during the regular class hours or otherwise? Were the "volunteers" told they could assemble or were they told they could leave? Did the school authorities or the teachers express approval of those participating in the prayer? Was attendance kept or not? If not, did the teacher otherwise know who participated and who did not? Was the prayer exercise offered as a part of the school routine or was it left to student initiative during free time, such as study period or recess? These are important facts.

Parents of young children know something about the difficulty of making young children of impressionable ages participate voluntarily in Sunday school exercises, for example. We know in wholly sectarian activities young people seldom volunteer. It takes parental coercion to make them do what we think they should do.

In this case, Mr. Speaker, it is the

Government acting as parent and telling the young people of America that we—that is, we the majority—know what is good for you and we are going to prescribe a prayer that will not hurt you a bit.

Such is not the function of Government, Mr. Speaker.

In the debate over House Joint Resolution 191 altogether too little attention has been paid to the meaning of its operative words. Indeed, critics have ably demonstrated their confusion with the language. But in the event that the language does become the law of the land, some guideposts will be needed.

It has been said that nondenominational prayers do not exist. If the term is understood to mean that there is a religious belief common to all religions, then such prayers do not exist. But obviously a nullity is not intended. Since there is no belief common to all religious sects, a narrower meaning must be inferred. In narrowing the term we must take cognizance of the fact that the term has gradually been employed in the context of the school prayer issue in order to decrease cause for divisive religious controversy. Thus a too narrow focus would defeat the intention of the supporters of the resolution insofar as it would increase the risk of controversy. Of course, controversy can never be eliminated entirely, because there are people who object to prayer per se. But that is well understood by the supporters of the resolution.

What is meant by "nondenominational" is neither "common to all" denominations nor "common to a few." Rather the term is meant to embrace the largest possible common ground of religious belief without stretching so far as to become merely a mental concept incapable of translation into reality. If this is accepted as the meaning, what we arrive at is a belief common to as many denominations as possible, for example, a belief in God.

This interpretation does not do violence to the term "nondenominational" and does reflect what the resolution's supporters intend.

Next, is this prayer, which only recognizes the existence of God, to be voluntary or compulsory? Opponents have argued that "voluntary" prayers would be impossible in situations where the Government was involved. The better the point is made, however, the clearer it must be that the proponents have some lesser form of "voluntary" in mind.

What is intended, in answer to the question, is that the prayers shall be voluntary except insofar as Government involvement is thought to be coercive. I believe that the proponents want the prayers to be as voluntary as would be possible in a situation of Government involvement in religion. Thus what is intended is that Government be authorized to offer a free choice to pray or not to pray. While opponents may find a contradiction between the Government's offer and the person's freedom to choose, this is precisely the point; the proponents are basically seeking to impose new definitions on first amendment terms. Yes, the proponents favor "voluntary prayer" but a new kind of voluntary prayer.

The proponents wish to modify the establishment clause as it is now construed so that Government might offer the opportunity for the free exercise of religion. The proponents also wish to reject the suggestion that an offer by the Government is, in itself, an infringement of the free exercise clause.

I assume that no further modifications are intended. Once the argument that government involvement precludes voluntariness is eliminated as a matter of law, we are left on an uncharted sea as to what is voluntary prayer.

I would envision that the question of voluntariness would be one for the trier of fact since, as I indicated, the resolution rejects arguments that provide an answer as a matter of law. The trier of fact would judge the total situation weighing various factors.

Was the prayer exercise conducted by teacher or students? Was it conducted in the classroom or elsewhere? Was it conducted during regular class hours or otherwise? Were the "volunteers" told they could assemble or were those objecting told they could leave? Did school authorities or the teacher express approval of those participating in the prayer? Was attendance kept? If not, did the teacher otherwise know who participated and who did not? Was the prayer exercise offered as part of the school routine or was it left to student initiative during free time, such as study periods or recess?

Such factors, no one of them necessarily determinative, will be taken into account by the trier of fact in judging whether the total impact of the circumstances on the student was coercive or not.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. I join with many of my colleagues in opposing House Joint Resolution 191. It is completely clear that this proposal to amend the Bill of Rights has originated in the minds of sincere and well-intentioned, religiously motivated citizens of this country, and I respect them for their sincerity. However, I do not support their thesis that this amendment is either necessary or desirable. Every Member of Congress is aware of the fact that when emotional issues such as this arise, particularly when they involve religious questions, it is easier to yield to the pressure of a small crusading band of zealots than it is to oppose them with calm and rational arguments. There are some instances when Members of Congress might be excused for allowing themselves and their vote to be given over to expediency, but not, I believe, on an issue of such profound importance as this.

Today our Nation is divided and torn in many ways. Certainly we do not wish to intensify and aggravate the divisions and hostilities that plague us, but if Congress were to pass this resolution, we would be doing exactly that. We would be injecting into our society what would certainly become a searing religious controversy, and for no constructive purpose. If we refer this proposed amendment to our Bill of Rights to the legislatures of the 50 States for ratification, every single member of every State legislature would be subjected to even more intense, unreasoned and emotional pressures than we have experienced, from perfectly well-intentioned persons who neither understand the constitutional protections we now enjoy, nor the mischief they would be creating.

The record of reasoned opposition to House Joint Resolution 191 is overwhelming. It includes virtually all the major religious organizations in America, most constitutional lawyers, and most educators. This is not surprising.

First. The proposed amendment is completely unnecessary because voluntary prayers—denominational or nondenominational—are presently permitted under our Constitution and the rulings of the Supreme Court.

Second. The proposed amendment is vague and ambiguous. Simple as it may seem on the surface, it is loaded with expressions which would unquestionably lead to endless litigation in the subject area where there is now a fairly clear legal picture.

Third. It would put the Government into the business of setting religious criteria and determining what, if anything, is a nondenominational prayer.

Fourth. It completely ignores all the religions and all the religious beliefs in this country that do not accept as part of their religious experience the stylized method of prayer and the assumptions involved in these prayers that are taken for granted by the sponsors of this amendment.

For these reasons and many others, any objective, rational consideration of this proposed amendment to our Bill of Rights by those who truly wish to protect our religious freedom should lead to its rejection.

To my many friends who believe that public recitation of a nondenominational prayer each day by anyone will make this world a better place in which to live, let me quote from Jesus of Nazareth, as related from St. Matthew in the King James version of the Bible:

> And when thou prayest, thou shalt not be as the hypocrites are: for they love to pray standing in the synagogues and in the corners of the streets, that they may be seen of men. Verily I say unto you, They have their reward.
>
> But thou, when thou prayest, enter into thy closet, and when thou has shut thy door, pray to thy Father which is in secret; and thy Father which seeth in secret shall reward thee openly.
>
> But when ye pray, use not vain repetition, as the heathen do: for they think that they shall be heard for their much speaking.
>
> Be not ye therefore like unto them: for your Father knoweth what things ye have need of, before ye ask him.

Mr. Speaker, prayer is a personal thing, and should be taught and practiced in the home, in the church, and in

the Sunday school, but it can be experienced anywhere today, in this free land of ours, protected by the first amendment to the Constitution. Voluntary prayers, denominational or nondenominational, may, under our Constitution, be offered in any building, public or private; by any group, lawfully or unlawfully assembled. But the most important thing is that prayer should be a personal experience. Prayer is not a ritualistic rite imposed upon children, which they can escape only at the cost of social ostracism. Prayer can be a mother preparing a meal for her family, a father walking with his children, a nurse sitting up with a sick child, a farmer tilling his land, a stonemason, yes, and a Congressman, dedicated to doing his best.

Let us stand up now with the good sense and courage that we have always revered in the great men who have come before us—who have provided us with the heritage under which we worship freely today. Let us reject this resolution, however well intentioned it may be. Let us protect our religion from State control. Let us protect every single one of our children from any suggestion of religious tyranny over their minds. Let us protect our society from any more unnecessary religious controversy and strife. Mr. Speaker, the first article of the Bill of Rights states:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

Nothing could be more clear. It means exactly what it says. Any step away from this standard is a step away from religious freedom. Let us protect the Bill of Rights under which all of our religious freedoms flourish. I urge you to vote "No" on House Joint Resolution 191.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. McKAY).

Mr. McKAY. Mr. Speaker, I have had some concern, as has everyone else, about the religious nature of this country and its moral fiber and its family background. However, the longer I live and the more I am exposed to it, the more I am convinced that you cannot legislate morality or religion. You build it in the home and church, and when the home and church breaks down, then you are in trouble. Propping it up in any school will never change that or turn it around.

My faith is my private business; the history of my people suggests to me that I do not want government tampering with my faith, as has been the history of my people. I do not want to give them that chance.

I also believe that the Constitution is an inspired document. If those men who formulated the Bill of Rights, were inspired, then I do not think that has changed now.

I oppose the amendment.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Mrs. GRIFFITHS).

Mrs. GRIFFITHS. Mr. Speaker, I oppose this amendment.

I oppose the Government telling me how to pray. I would like to remind those here that if this amendment should pass, you will find that in the small towns of America, where they know what is happening in the schools, that those parents and those children will come to hate this amendment. They will oppose it. You will create endless schisms and endless trouble.

Mr. Speaker, I hope that this amendment is soundly defeated.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I oppose the so-called prayer amendment, not because I have the less faith in religion as a guiding light for the people but because I have the less faith in Government. I believe, like James Madison, that religion is too personal, too sacred, too holy, to permit its "unhallowed perversion" by a civil magistrate.

This amendment, if it means anything at all, misconceives the purpose of the Bill of Rights and purports to put into the Bill of Rights, which is a document protecting the people from interference by Government, a delegation of authority to determine what kind of prayer persons may engage in in schools and publicly supported institutions. Under the amendment they may "participate in nondenominational prayer."

Of course, it is true that today, under the controlling Supreme Court decisions, "persons lawfully assembled" anywhere are not denied the right to participate in prayer, denominational or otherwise. Therefore, the amendment technically construed diminishes rather than enlarges an individual's right to worship, if he desires to, in a public place.

The mischief of the amendment arises from its predictable public effect. Since it has not been supported as an abridgement of the right to pray in school, but rather as an enlargement of authority to prescribe prayer, it will undoubtedly be construed to have this effect and to give to school officials the authority to impose their particular brand of orthodoxy upon children in the schools.

Certainly, the Bill of Rights was never intended to give more power to Government. The proposed amendment is in direct contradiction of the primary purpose of that great document. The first 10 amendments were added to the articles of the Constitution at the urging of Jefferson and Madison and others who believed in protecting rights of individuals even against their own representative government. This is quite different from the purpose of the articles of the Constitution. A delegation of authority to prescribe religious forms, had it been intended, would have been in the body of the Constitution which delineates and balances the structure of Government and provides the means by which the people may act corporately through representative processes. It happily does not include any process or authority to prescribe religious forms, delegate clerical authority, or tamper in any way with the thoughts and beliefs of the individual. And it certainly does not provide even limited delegation of authority to school administrators to determine what kind of prayer a young person shall have the right to engage in in a "building which is supported in whole or in part through the expenditure of public funds."

Young people are required to go to school. In this captive assembly a governmentally approved form of prayer would become a part of the function of the school, thus of the Government. Not only is such an exercise of power not a part of the structure of Government provided for in the body of the Constitution, but it is expressly prohibited in the first amendment which provides that Congress may not make any "law respecting an establishment of religion, or prohibiting the free exercise thereof."

Thus, the proposed amendment is revealed as an awkward attempt to alter basic law stemming from an utter lack of sensitivity as to our constitutional structure. If the purpose of the amendment were desirable, the way to accomplish this would be to set up some kind of structure in the body of the Constitution authorizing a limited "state religion"—may God forbid.

But it is utterly inappropriate to attempt to do this by placing another negative statement in the amendments to the Constitution, which purport to extend the rights of individuals. Such proposed amendment, as we have said, is, in fact, intended to limit those rights by prescribing the kind of prayer that may be engaged in and by implying that some administrative authority may determine what is "nondenominational prayer" and impose a religious ritual as a part of the school program.

The Bill of Rights guarantees rights of people, not as a corporate body, but as individuals entitled to be respected as individuals. Under it, they are entitled, in matters purely personal to them, to be let alone, to go their own way.

History has proved that affording this protection against even the powers of a republican form of government is an act of great wisdom; for government, being at best representative but never perfectly democratic and humane, cannot be trusted to tamper with the private life, thoughts, and religion of its citizens.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. My colleagues, one thing has disturbed me greatly about this amendment, and it is this: This amendment would erode the fundamental separation, that constitutional separation, between church and state.

I fail to understand how anyone in this Chamber can dispute this fact. This erosion would be the result of passing the Wylie amendment. The separation of church and state was the precise objective that the framers of the Constitution, who themselves had been discriminated against and persecuted in matters of religion by the state, sought to avoid.

I ask a question of those supporters of a nondenominational prayer: Who in this body can frame a voluntary nondenominational prayer? What principal,

local school board, or Governor could do this? It would be easier for us to resolve that ontological question which asks how many angels can alight on the head of a pin. I therefore argue that there is no such thing as a nondenominational prayer—and that our course has been charted for us by the framers of the Constitution. I urge all my colleagues to vote against House Joint Resolution 191.

Mr. CELLER. Mr. Speaker, I yield one-half minute to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, the Bill of Rights has protected basic American freedoms for 180 years. The first of those freedoms guaranteed in the first 10 words of the first amendment, is freedom from any government establishment of religion. Our Founding Fathers wisely determined to separate church from State absolutely and to permit no governmental dictation, guidance or even suggestion in the field of religion which of course includes prayer.

The proposed constitutional amendment on which we vote today would qualify and becloud the protections of the first amendment which has served us well since the founding of this Republic. Can any one doubt that constitutional sanction of so-called nondenominational prayer would lead to governmental determination of which prayer was proper and which was not? This is the very danger which the framers of the Bill of Rights warned against, and labored to avoid. The terrible persecutions of religion by government which afflicted Europe in the 17th and 18th centuries were still very fresh in their minds.

Mr. Speaker, it is perhaps understandable that with so much additional lapse of time, we become less mindful of the lessons of history, and forget how many of our ancestors have come to these shores fleeing such persecution. Is it not also obvious that if we start tinkering with the very first 10 words of the Bill of Rights today, those who disagree with others of its safeguards will be encouraged to offer similar amendments, which could well lead to a general erosion of this basic document of freedom?

Mr. Speaker, I say let us remember the wise counsel of Madison and Jefferson and stand by the Bill of Rights. Let us vote down this well intentioned but dangerous amendment.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Speaker, I rise in opposition to House Joint Resolution 191.

I signed the discharge petition before you so as to bring this matter before the House for clarification, not modification of the Constitution. For many years it has been popular to condemn the Supreme Court. In fact, it is still popular, and in many instances quite proper, but I believe the Court's decisions on prayer were proper.

Mr. Speaker, here is what we find in article I of the amendment to the Constitution:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

The Court opinion affirmed this clause. They said no law means no law.

Mr. Speaker, my correspondence is running 200 to 1 against House Joint Resolution 191. It is coming from laymen, lawyers, scholars, clergymen, and religious leaders. These people have a lot better understanding of the Constitution and the impact of the proposed resolution, if adopted, than most Members realize. When you say to these great church leaders that they are being misled, they say the facts are just the opposite, that it is Members of Congress who are being misled, and I believe they are correct.

One of the greatest constitutional lawyers in America, Hon. Henry C. Clausen, of California, has studied the proposed amendment and the Court's opinions in great detail. He is so thoroughly convinced that House Joint Resolution 191 should be defeated that he published one of the most factual and convincing statements on the subject matter ever published. It was carried in the New Age magazine. It would be difficult for any Member to vote for House Joint Resolution 191 if he read the statement by this great constitutional lawyer. This informative statement will be made a part of my remarks so that all Members can read his conclusions.

Mr. Speaker, let us keep in mind that there are three sides to most issues, your side, my side, and the right side. Should we not now move away from technicalities and resolve this matter on the right side by voting this amendment down and not tamper further with the Constitution which clearly intended the complete separation of church and state.

In all probability, if we let the camel get his nose under the tent, the tent will finally topple.

Let us also remember that the Supreme Court did not take prayer out of our schools, it precluded only governmentally enforced prayer. This issue was dead for many, many years. Reviving it would not appear to serve any useful purpose.

Mr. Speaker, I stated in a May 1, 1964, press release:

The Constitutional guarantee of religious freedom in the United States, which is coupled with the fundamental concept of the separation of Church and State, would be "dangerously undermined, if not actually destroyed," by adoption of the Becker "school-prayer" proposal, now pending in Congress, to amend the first article of the "Bill of Rights," in the opinion of Louisiana's Congressman Otto E. Passman.

He said today that the Supreme Court's recent "school-prayer" rulings had been widely misunderstood, contending that the decisions "did not, in any manner, prohibit voluntary prayer in public schools, but that, instead, they upheld America's basic safeguard to religious freedom, as guaranteed by the First Amendment to the Constitution."

He said the decisions "serve to protect religion from the crippling hand of government by upholding the doctrine of the separation of Church and State."

"Simply and briefly stated," he added, "the Court declared that no governmental authority may prescribe prayers, or readings from any of the versions of Scriptures, or any other sort of religious observance for children in public schools. It did not prohibit any of these practices on a voluntary basis."

Congressman Passman continued with this comment:

"There have been so many questionable and objectionable decisions handed down by the U.S. Supreme Court during recent years that many, if not most, of our citizens are reluctant to accept any of the Court's decisions as being in the public interest and in accord with the intent and purposes of the Constitution as it was written. I, too, deplore many of the Court's decisions, but if I should at this time remain silent, and thereby decline to give factual information to the public, with respect to the proposed Becker Amendment and prayer in our public schools, then such inaction on my part would be a profound disservice to my constituency. Therefore, I am compelled to speak up, outlining the facts as they are, not as they are imagined.

"The First Amendment to the Constitution of the United States of America states that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .' And, if we want to preserve our American way of life, we must let the First Amendment stand as it is.

"The recent school-prayer decisions of the Supreme Court have been widely misunderstood, and many of our people—most of them doubtless holding deep convictions—believe that these decisions prohibit prayer and Bible reading in our public schools; in fact, however, they do nothing of the kind.

"I say that the teachers in our schools may pray in any manner that they wish, and so may the pupils. Classes may be opened with prayer, and the Bible may be read in schoolrooms, so long as these actions are voluntary on the part of those engaging in them and they are not following a fixed, or prescribed, prayer or Scripture made mandatory by some governing body or official or agent of govenment, either local, state or Federal.

"There are some 200 different religious faiths, denominations, sects and creeds in this country of ours. So, if a law is passed or the Constitution is amended prescribing prayer in public schools, then what prayer would be used? What religion would be taught in the schools? Judaism, Catholicism or Protestantism of the Christian faith, Shintoism, Mohammedanism, or some other? If the teacher is, for example, of the Jewish faith, would he, or she, be compelled to recite a Protestant or Catholic prayer of the Christian faith?

"Once the door is cracked, and the protection afforded by the separation of Church and State, which is guaranteed by the First Amendment, is molested, the fact of religious freedom would no longer be with us; the separation of Church and State would have ceased, and, as only one illustration, public funds could be demanded for all parochial schools, regardless of their faith or denomination.

"I know of nothing that is more healing, uplifting, helpful and satisfying than prayer. But, each individual should be permitted to pray and worship in his own way, according to his own understanding and faith, and not be required to recite a fixed prayer not of his own faith, which has been made mandatory, or prescribed, by some governing authority."

BEWARE THE BOOMERANG

Congress soon will be asked to pass and submit to the states for ratification an amendment to the Constitution permitting "nondenominational" prayers in public schools.

That raises these critical questions: Who is going to say what is a "nondenominational" prayer? What authority, governmental or private, will determine the place

and content of such prayers? Who will be the super spokesman? How will the prayer be enforced? What provisions of our Constitution will the amendment discard? Will the amendment, in effect, rewrite the Bill of Rights?

These are insoluble and contentious questions in a country of diverse religious creeds. Any attempt at answering them would entangle the Government disastrously in a conflict where there should be peace among pluralism. That is why many church organizations oppose the amendment, especially since they feel our Bill of Rights and its First Amendment as presently written adequately protect religious liberty, and that tinkering with the language would intrude the Government wrongfully into the religious arena.

It will be recalled that the United States Supreme Court case of *Engel* v. *Vitale* in 1962 struck down as a violation of our Constitution a practice of New York that forced its public school children to recite this daily "prescribed" prayer:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our Country."

There then swept across the Nation in some quarters an emotional and psychological wave criticizing the Court. This cast up upon the shores of Washington several proposed amendments. It was erroneously assumed that the Court was against God. But all that the Court barred was the *enforced* recitation of a state-composed prayer. Any child then or now may pray in a public school *voluntarily*. The vice of the New York practice was the State compulsion. That is the opposite of American voluntaryism.

It is no official concern of the state whether a child prays or is trained in religious values. That is for the parents, the home, the churches or, if desired, religious schools.

Before deciding to amend the Constitution, we should take a deep breath. Like matrimony, it is something that should not be done lightly. We should understand first what will be the full impact upon our future lives. It is not something with which to "tinker." I am reminded of the popular verse of some years ago that ran:

"I thank my God the sun and moon
Are both stuck up so high
That no presumptuous hand can stretch
And pluck them from the sky.
"If they were not, I do believe
That some reforming ass
Would recommend to take them down
And light the world with gas!"

The present attempt to amend our Constitution so as to permit the so-called "nondenominational" prayers should be firmly rejected. It would invade our present fundamental Constitutional rights and basic freedoms rather than confer an additional one. It would impair the integrity of our hard-won guarantee of religious liberty. It would tinker with the solid base of interpretive case decisions that have given life and substance to the means by which our Founding Fathers set out to preserve peace and harmony among our people. Such a deviation as now proposed, however slight and however well meant, would be exploited by religious zealots. It would be the foot in the door, the camel's nose in the tent, sure to result in further and eventual fatal intrusions.

May I suggest that *as an individual* you make your voice heard. Tell your views to your elected representatives. Your help can be decisive.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, despite the brief time to hear oral arguments today on this important issue, I am indebted to the gentleman from Ohio, (Mr. WYLIE), as well as the opponents of this proposed amendment for making available through the RECORD a very comprehensive review of the arguments that can be made on both sides of their propositions. I have examined them carefully and the RECORD of last Thursday with Mr. WYLIE's questions and answers plus other extensive material was especially helpful. The gentleman from Ohio, far from being disingenuous, has very frankly described the purpose of his amendment. It is to require local school authorities to determine what is a nondenominational prayer, subject to judicial review. The outpouring of communications from denominations both large and small makes it abundantly clear that there is no agreement within the religious community on this vital matter. Ecumenism, notwithstanding our pluralistic religious heritage makes it inevitable that there would be enormous diversity of opinion on this question. Therefore, it is more than idle speculation to assume that before we have fleshed out the meaning of these two words in 40,000 school districts across the land we face almost endless controversy of the most divisive sort. I cannot believe that all of this will contribute significantly to a religious renaissance or revival in our land. Long before the crusades and the religious wars of the middle ages, matters of faith and doctrine had proved capable of precipitating the most bitter kind of strife. I hesitate indeed at the prospect of plunging our already beleaguered schools into the conflict-producing area of theological disputation.

The issue is not whether it would be desirable to reverse the tide of secularism in our land and enhance the influence of religion on American life. Clearly this is a most desirable objective. The issue is do we wish to reverse the decision in which Justice Black—now revered by almost everyone as the foremost defender of the Bill of Rights in the long history of the Court—said:

> The constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government.

I have paid some attention to the history of religious revivals in this country. And even though it is true that the Scriptures tell us that a little child shall lead them, I am unaware of any instance where a revival has begun in the classroom of a public school because of a State-sponsored religious exercise. They have occurred spontaneously on certain college campuses where students have voluntarily engaged in sustained sessions of intercessory prayer. The constitutional bar against State-ordered devotional religious exercises does not require the son of Mrs. Ben Ruhlin, the indefatigable lady from Ohio, to "park God outside the classroom." A firm belief in a transcendental God recognizes no such barrier. I am convinced that if we as parents will by our own faith and example indoctrinate our children with a firm, vibrant and living faith in God that we can reclaim our heritage as a nation who believes in the words of the preamble to our Constitution that it is our Creator who has endowed us with those inalienable rights so fundamental to our liberty.

GENERAL LEAVE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the subject of this resolution.

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

There was no objection.

The SPEAKER. The Chair will advise the gentleman from New York that gentleman has 5 minutes remaining.

Mr. CELLER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CORMAN).

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

Mr. CORMAN. I yield to the gentleman from Georgia (Mr. STEPHENS).

Mr. STEPHENS. Mr. Speaker, this proposed amendment to the Constitution has the effect of trying to define freedom of religion as contained in the first amendment to the Constitution. This amendment is part of that great American inheritance, the Bill of Rights, adopted in 1791.

It reads, in part:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Many times when a law is passed, it is necessary to show the full intent of the legislative body by defining words and terminology employed in the act. When the intent is so defined, it almost always operates to restrict the meaning of the law. This is exactly what the proposed amendment would do. It seeks to spell out certain exceptions to the words of the first amendment. Freedom of religion, like the other freedoms in the first amendment such as freedom of speech, freedom of the press, the right of the people peaceably to assemble, and the right to petition the Government for redress of grievances, will only be effective when they are not restricted.

If we seek to define freedom of religion, we will also find emotions engendered for defining freedom of the press, freedom of speech, and the other rights which we have.

To illustrate the dangers in being too detailed, I give this experience. Before coming to Congress, I was general counsel for the Georgia Press Association. While serving in that capacity, I was one of the attorneys who represented the association when it opposed rules that had been announced by one of the judges of a superior court. In his rules of court, he defined what would be considered contempt of court by press photographers and newspapermen, saying specifically that no witness, attorney, nor spectator attending his court could be photo-

graphed in the courtroom, court corridors, the courthouses, or on the sidewalk, adjacent to the courthouse.

The chief complaint made by the newspaper editors was that this group of rules abridged the freedom of the press. The objection actually was that the judge was defining freedom of the press too narrowly. They did not believe that there should be this definition because it restricted the language of the Constitution. There is no difference in this proposal involved in restricting the freedom of religion by adding a definition.

The Supreme Court of the United States, in all its decisions on prayer, has said only one basic thing:

No governmental authority shall make laws or rules requiring a specific prayer or directing religious exercises in a school supported by public funds.

I feel, too, that people who have written to me do not fully understand that this is what the decisions say. If they understood this, they would certainly agree with me that we do not want to be told by anyone, except by our religious leaders, how to pray, when to pray and if we do pray, what we will say.

Reflection upon this will show the reason why. If such power in Government were legal, then it would be possible for and order to be issued requiring that only the Old Testament be used or only the New Testament be read, or an order issued that Buddism be taught, or that some godless and pagan religious philosophy be read. Surely, this is not what is desired!

I do not wish anyone anywhere to think by these statements that I am opposed to having prayer in public schools. I am not. But, I am opposed to having any form of government tell me and my children that we do not have freedom to worship God according to the dictates of our own consciences and without any governmental direction.

I have been asked how prayer can be carried on in our public schools as a result of the decisions by the Supreme Court. The answer to this important question constitutes a challenge to all ministers and parents. In 1964 when this question came up before, I proposed a plan which requires no legislation. The plan I proposed to the National Congress of Parents and Teachers and to the Georgia Parents and Teachers Association and which I propose again to every local parent and teacher association in Georgia and in the United States is as follows:

The Supreme Court has said that no governmental agency may require or direct religious exercise in a public school. However, the Supreme Court has not said, and I do not believe will ever say, that worship cannot be carried on by private groups on a voluntary basis in a public school. I ask that the Parent and Teacher Associations, by resolution, at every level, request school authorities to establish during every school day a period of "free time." No mention in such resolution shall be made that this "free time" will be used for religious purposes. However, during the period of "free time" the grade mothers, mothers, dad-presidents, the schoolteachers, the ministers and Sunday school teachers, and many other devoted Christians, could hold a Bible reading for children in the classroom and allow the children voluntarily to attend on their "free time". There is no governmental action in this method of bringing prayer back to the school and it does not contradict any of the decisions of the Supreme Court. It will fit in with the tradition of service requiring Christians to make a sacrifice because it will take an effort on the part of the mothers, fathers, and ministers to staff such an undertaking. If such a great challenge is not met then it is apparent that we are asking the schools to take over. We would be throwing religious instruction into the public school system and not keeping it in the churches where it belongs. The Supreme Court in a decision about 90 years ago said this:

True Christianity asks no aid from the sword of civil authority. It began without the sword, and wherever it has taken the sword it has perished by the sword. To depend on civil authority for its enforcement is to acknowledge its own weakness, which it can never afford to do. It is able to fight its own battles. Its weapons are moral and spiritual. Armed with these, and these alone, it is not afraid nor "ashamed" to be compared with other religions, and to withstand them singlehanded. And the very reason why it is not so afraid or "ashamed" is, that it is not the "power of man" but "the power of God" on which it depends. True Christianity never shields itself behind majorities. A form of religion that cannot live under equal and impartial laws ought to die, and sooner or later must die.

No legislation of any kind with this constructive proposal will be necessary. There will be no need to confuse the people of America with definitions which restrict the freedom of religion rather than enlarge it. We will keep America as the land where people have the wonderful exercise of complete freedom of religion which, among many other reasons, was a chief one for settlement of this country.

When I am sick, I consult a doctor. If I need drugs, I buy from a druggist. If I need building plans, I advise with an architect. If I have a legal problem, I hire a lawyer. And, so, in religious matters, I should give great weight to professionals in the realm of theology.

The issue before the Congress now is a legal one and a religious one. What do the experts say? The American Bar Association has opposed any change in the First Amendment. The leaders of the Southern Baptist Church, the Methodist Church, the Presbyterian Church, the Christian Church, the Episcopal Church, and the Jewish synagogues all oppose any change in the freedom of religion clause of the Constitution. If history is consulted, you will discover that these entities have always been in the forefront of the fight for preservation of the separation of church and state. I do not believe we will go wrong if we follow their guidance in opposing the Becker amendment and the many other proposals which would do serious damage to the freedom of religion. Let the PTA, as a non-Government organization, pick up the challenge offered and bring religious exercises to the schools on a voluntary basis and hold inviolate the principles of our inheritance.

I know that the people who have written to me are perfectly devoted Christians and completely sincere in their concern. I hope my comments will also be considered in the same spirit of Christian forbearance. They are expressed with the same sincere feelings of what is the best for Christians as are the feelings of those who advocate the changes in the Bill of Rights.

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

Mr. CORMAN. I yield to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Speaker, almost 200 years ago, the citizens of our country adopted the Bill of Rights in the form of the first 10 amendments to our Federal Constitution. The purpose of the Bill of Rights was to safeguard to all of the people certain basic and inalienable rights which were considered to be conferred upon man by God, and were never to be surrendered to any government.

The importance given to freedom of religion by our forefathers is demonstrated by the fact that this is the very first subject dealt with in the first amendment. The first amendment says:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

This language, written by God-fearing men has well served to preserve the religious freedom of our citizens of widely differing faiths.

The proposed amendment reads as follows:

Nothing contained in this Constitution shall abridge the *rights* of persons lawfully assembled in *any public building* which is *supported in whole or in part through the expenditure of public funds*, to participate in non-denominational prayer.

Who has the infinite wisdom required to devise a nondenominational prayer which would not be harmful to the free exercise of religion by various Christian faiths, Catholics, Jews, Buddhists, Moslems, and others who attend schools and use publicly supported buildings?

Clergymen tell me that such a prayer can never be devised. Constitutional lawyers say that governmental authority would be required to devise or approve such a prayer and that the courts would be required to rule whether a certain prayer is truly nondenominational.

This aspect of the amendment has the effect of injecting government into the exercise of religion. It tends to destroy the existing neutrality of government toward religion. The Supreme Court decisions which prompted the amendent in no way prevent people from praying, but simply prohibits the government from participating in religious activity and from becoming involved in an individual's free choice. I notice that the amendment does not contain the word "voluntary" which leaves open the questions as to

whether a child can be coerced to pray.

As the son of a minister, I am certainly aware of the value of religious training. I can truthfully say, however, that the most enduring religious and ethical principles in my own life were obtained in my home and in my church, and not in the public schools. My children have often expressed the same opinion.

For the above reasons I will vote—not against prayer—but against government interference in the exercise of religious freedom.

Personally speaking, I deeply believe in the function and efficacy of prayer. I will vote against the so-called prayer amendment because I believe that the constitutional provision against government interference in the exercise of religious freedom is basic to free performance of all religious acts in all faiths.

Mr. Speaker, I oppose as a matter of conscience, based on deep personal conviction House Joint Resolution 191, the so called prayer amendment.

I cannot vote to authorize any entity of government, Federal, State or local the right to prescribe on my 15 grandchildren when they shall pray, how they shall pray, where they shall pray or the formulation by word or ritual of the type of prayer they shall use in their prayer to their Creator.

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

Mr. CORMAN. I yield to the gentleman from Georgia.

Mr. LANDRUM. Mr. Speaker, I wish to say that I wholeheartedly endorse the eloquent statement made by our distinguished Speaker (Mr. ALBERT) earlier in this debate, and the remarks of the gentleman from California (Mr. HOLIFIELD) immediately preceding me.

Mr. Speaker, I am not prepared to leave a decision on how I pray, when I pray, how my children and grandchildren shall pray, and when, to any agency nor to any agent of government. This amendment will, in my judgment, result in interminable legal proceedings to determine what is nondenominational, what is or is not voluntary and will be in direct violation of the first clause of the first amendment to the Constitution, which says:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

There is no law now prohibiting prayer. The prohibition is against a govment agent, or agency saying when, how, and what kind of prayer shall be allowed. And I am afraid an amendment such as this one proposed today would result in destruction of our constitutional safeguard vital to religious freedom.

Mr. WOLFF. Mr. Speaker, will the gentleman yield;

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

Mr. WOLFF. Mr. Speaker, I oppose the Wylie amendment and hope to God in the best interest of this Nation that this resolution is voted down.

Mr. Speaker, shortly we will vote on House Joint Resolution 191, which declares that:

> Nothing contained in the Constitution shall abridge the right of persons lawfully assembled, in any public buildings which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

Because of the great controversy that has raged over this issue now, and in the past, I wish to take this opportunity to declare my views on this important resolution.

Mr. Speaker, I am not opposed to the recitation of prayers in public schools. Nor do I object to the teaching about and discussion of religion in our public schools. I believe that children should be given the opportunity for silent meditation in the classroom and should not be deprived of knowledge concerning religion and prayer simply because they attend institutions supported by public funds. In fact, even the Farmers Almanac declares that:

> Prayer should never be taken out of the public school. That's the only way a lot of us get through.

Well, that may be true, but I would also point out that children are presently denied none of these privileges, and in fact are free to pray in school without penalty.

Today, though, we are faced with a measure that, if passed, would deny our children this freedom to pray to God. House Joint Resolution 191, the so-called prayer amendment is exactly that—so-called. For instead of guaranteeing religious freedom, this resolution would lead to the atheistic abrogation of one of the most important concepts this country has known. Never before has our Nation acted to rescind or limit a right that has been insured through the Constitution. Never in our history has the American people desired to diminish the scope of our Bill of Rights, and I cannot believe that the American people wish that to happen here today. This amendment would require, not permit, our children to pray in a certain way in school, and in no way can I reconcile the preservation of religious freedom with the setting of a required government-dictated prayer.

The careful preservation of all the individual rights and freedoms that are embodied in the Bill of Rights are what set our Nation apart from the totalitarian regimes of the world. The late Justice Hugo Black, in ruling against the use of government-dictated prayers in the schools declared:

> One of the greatest dangers to the freedom of the individual to worship in his own way lay in the government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services.

One of the unique features of our Constitution is that it protects the rights of the individual. If we were to enact this amendment, we would in effect be declaring our indifference to constitutional protection of the rights of the individual, for what would be the safeguard to insure a government prayer that was acceptable to all.

Again speaking for the Court in its landmark decision of 1963, Justice Black said:

> In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.

I think all would agree that there is no room in a democracy such as ours for state prayers or a state religion. Yet I fear this is exactly what would result from the kind of secular, political control of prayer this amendment would generate. The prospect that our children would be forced to pray to the state rather than to God is, I am afraid, a very real one, for who is to decide what is acceptable for our children to recite as prayer, and, more important, what criteria will determine what is nondenominational? In a sense, that which is nondenominational is also nonreligious actually atheistic. It follows, then that in order for a prayer to be acceptable under the vague terms of this amendment, it would have to delete any mention of those great values and traditions that are the cornerstone of all the world's great religions, and that are central to the lives of those of us who claim to be devout in any sense.

Mr. Speaker, to recite bland, innocuous prayers is meaningless, but what is worse, to be required to speak such words is dangerous to democracy. It is significant, I think, that virtually all major religious groups in this country oppose this amendment. These leaders—and I would like to include at the close of my remarks a list of the many religious and lay groups who have contacted me to oppose this amendment—recognize the grave danger of associating matters of religion with secular affairs, especially when such indiscriminate control as this amendment proposes would be available to the Government.

I would like to quote the views of just a few from the many letters I have received:

This is from a statement by the Baptist Joint Committee on Public Affairs which includes all major Baptist groups in this country.

> It is our opinion that the proposed amendment is offered in view of a misinterpretation of the so-called "prayer and Bible reading" decisions of the Supreme Court in 1962 and 1963, which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises.

From a statement by a group of Long Island clergymen:

> The Amendment, if passed, may contribute to the increase of religiosity, but it can only undermine faith. We are threatened not by the secularization of our schools so much as by the secularization of our religion.

United Parents Associations of New York City:

> School children would be particularly to vulnerable pressure contrary to their religious teachings.

U.S. Catholic Conference:

Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer.

National Council of the Churches of Christ:

We oppose the so-called "prayer" amendment because it would limit meaningful prayer and demean religion . . .

National Council of Jewish Women:

The proposed amendment introduces a divisive element into our society and would create no end of confusion and conflict on the definition of what is "non-denominational prayer."

United Presbyterian Church:

There is no prohibition today against our children praying in school *as the spirit moves them*. Nor is there any prohibition against teachers teaching objectively about our country's religious heritage . . . We would oppose such prohibition if attempted. But we equally oppose nondenominational prayers authored, in effect, by those who are agents of the state.

The original case that led to the Supreme Court's much maligned ruling occurred in my home State of New York nearly 10 years ago over the use of the New York State Regents' prayer in the public schools. However, when the Court forbade the use of the regents prayer, under the terms of the first and 14th amendments—Engel against Vitale—and the following year reiterated this decision in a similar ruling—Abington School District against Schempp—the Court in no way prohibited voluntary prayer in the public schools. Rather, the Supreme Court was explicit in pointing out that it was only ruling against governmentally required recitation of an officially composed prayer. In urging my colleagues to join me in rejecting House Joint Resolution 191, as an ill-conceived and dangerous measure, I would again cite Justice Black in his majority opinion banning the use of prescribed, proscribed prayer:

The first amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support, or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office.

I pray to God that in the best interest of this Nation, this resolution is voted down.

Following is a list opposing the amendment:

The Rev. Murray S. Blackadar, First Presbyterian Church, Levittown, N.Y.

Rabbi Joel C. Dobin, Sinai Reform Temple, Bay Shore, N.Y.

Rabbi Donald N. Gluckman, Community Reform Temple, Westbury, N.Y.

The Rev. J. Harold Hadley, D.D., North Shore Unitarian Society, Plandome, N.Y.

Rabbi Bernard Kligfeld, Temple Emanu-El, Long Beach, N.Y.

The Rev. John E. Carrington, District Superintendent, United Methodist Church, Rockville Centre, N.Y.

The Rev. Carleton Fisher, D.D., South Nassau Unitarian Church, Freeport, N.Y.

Rabbi Mark A. Golub, Temple Sinai, Roslyn Heights, N.Y.

The Rev. Robert T. Hollett, Rector Christ Episcopal Church, Oyster Bay, N.Y.

The Rev. Norman W. Minard, Grace Presbyterian Church, Selden, N.Y.

The Rev. Irving R. Murray, D.D., Unitarian Universalist Church of Central Nassau, Garden City, N.Y.

Rabbi Robert Raab, The Suburban Temple, Wantaugh, N.Y.

Rabbi Martin S. Rozenberg, The Community Synagogue, Sands Point, N.Y.

Rabbi Alan Mayor Sokobin, Temple B'nai Israel, Elmont, N.Y.

Dr. Samuel Teitelbaum, Rabbi Commack, N.Y.

Rabbi Lloyd Tennenbaum, Kehillath Shalom Synagogue, Cold Spring Harbor, N.Y.

The Rev. Marvin R. Willard, United Methodist Church, Roslyn, N.Y.

Rabbi Norman Kahan, Temple Sinai, Roslyn Heights, N.Y.

The Rev. Robert H. Platman, Chairman, Commission on Christian and Jewish Relations Episcopal Diocese of Long Island.

Rabbi Harold I. Saperstein, Temple Emanu-El, Lynbrook, N.Y.

The Rev. Ralph Stutzman, Unitarian Universalist Fellowship, Huntington, N.Y.

The Rev. Louis H. Temme, Christ Episcopal Church, Oyster Bay, N.Y.

The Rev. Robert A. Wieman, First Presbyterian Church, Levittown, N.Y.

J. Brooke Mosley, President, Union Theological Seminary, N.Y.

Colin Williams, Dean, Divinity School, Yale University, New Haven.

Christopher F. Mooney, S.J., Pres., Woodstock College, N.Y.

George W. Webber, President, New York Theological Seminary, N.Y.

Edward R. Harris, Dean, Philadelphia Divinity School, Philadelphia.

Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tenn.

Frederick Wentz, President, Hamma School of Theology, Wittenberg University, Springfield, Ohio.

Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.

Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago, Ill.

Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.

Louis J. Putz, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.

John H. Tietjen, President, Concordia Seminary, St. Louis.

W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago, Chicago.

Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.

Marshal L. Scott, President, McCormick Theological Seminary, Chicago.

David J. Draewell, President, and Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, S.D.

Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Mo.

Merlyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Ill.

John L. Knight, President, Wesley Theological Seminary, Washington, D.C.

Albert C. Winn, President, Louisville Presbyterian Theological Seminary, Louisville, Ky.

James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pa.

Walter G. Muelder, Dean, Boston University School of Theology, Boston, Mass.

Fred W. Meuser, President, Evangelican Lutheran Theological Seminary, Columbus, Ohio.

W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.

Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia, Pa.

Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas, Texas.

Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.

Beauford A. Norris, President, Christian Theological Seminary, Indianapolis, Ind.

J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

American Civil Liberties Union, Washington, D.C.

Industrial Union Department, AFL–CIO, Washington, D.C.

United Parents Association of New York City.

United States Catholic Conference.

Board of Directors of the Buddhist Churches of America, San Francisco, Calif., and the Hompa Hongangi Mission of Hawaii, Honolulu, Hawaii.

National Council of the Churches of Christ, Wash., D.C.

National Council of Jewish Women, Inc., New York.

The United Presbyterian Church, Philadelphia, Pa.

Executive Council of the United Church of Christ, Council for Christian Social Action, Wash., D.C.

The United Methodist Church, Board of Christian Social Concerns, Wash., D.C.

Baptist Convention of New York, Syracuse, N.Y.

The Church Council of the American Lutheran Church, Minneapolis, Minnesota.

Committee for Public Education and Religious Liberty, New York, N.Y.

Law School of Harvard University, Cambridge, Mass.

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

Mr. CORMAN. I yield to the gentleman.

Mr. DOW. Mr. Speaker, I rise in opposition to this amendment.

PRAYER AMENDMENT OPPOSED

There has been no change in the Bill of Rights since it was added to the Constitution 180 years ago.

The first words of the first amendment in the Bill of Rights are these:

Congress shall make no law respecting an establishment of religion. . . .

Our Government and our great religions have existed very well together under this principle of separating church and State.

The prayer amendment is aimed to permit nondenominational prayer in our public schools. If passed, I think it would create great antagonisms in many communities over what is nondenominational. Minority religious groups would object that majority groups were prescribing prayers of a particular denomination. Many children would be forced by group pressure to go along whether they want to or not. Some children would be fought over in battles between nonconforming parents and school authorities. I am not in favor of compulsory prayer.

The prayer amendment is another of the never-ending efforts compelling conformity and forcing minorities to go through motions and display symbols to show that they are just like everyone else. This is regimentation, not democracy. It is not what our forefathers fought for.

The job of teaching religion is one that properly belongs to parents, the clergy and leaders of religious organizations. This duty should not devolve upon the

public school system. The doors of our churches and temples are always open to those who want to go in. Government has invaded too many aspects of our lives already; there is no need to give Government the power to tell our children what, when, where, and how to pray.

I am happy to note that the governing bodies of the United Methodist Church, the Episcopal Church, Lutheran Church Conventions, the United Presbyterian Church, the Southern Baptist Convention, the United Church of Christ, the American Baptist Convention, the Synagogue Council of America, the National Jewish Community Relations Advisory Council and many Catholic leaders have gone on public record against a prayer amendment to the Constitution.

Mr. CAREY of New York. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. CAREY of New York. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this amendment.

I think my colleague in the well will agree that this debate proves one thing. That is: that maybe some good theologians make good Congressmen, but it is quite certain from the debate here today that Congressmen do not make good theologians. We should leave theology where it is—protected by the first amendment and the Bill of Rights. We should pray, all of us, that prayer will remain immune from politics, and I see too much political pressure evident on this issue. The Bill of Rights, is, in my opinion, a great prayer for the dignity of the human person in this Nation under God. The Declaration of Independence is, in the words of G. K. Chesterton a recitation of the American creed. These documents comprise our great charter of religious freedom. I am free to pray in this House or in any public place. My children are free to receive religious education and to pray in the school they attend, public or private. Nothing in this amendment gives me or my children anything which I did not receive from my Creator or my Constitution.

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

Mr. CORMAN. I yield to the gentleman.

Mr. BURTON. Mr. Speaker, I rise in opposition to the resolution and would like to associate myself fully with the remarks that the distinguished Speaker of the House of Representatives made earlier today.

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

Mr. CORMAN. I yield to the gentleman.

Mr. SISK. Mr. Speaker, I rise in opposition to this amendment as I believe it would be a most tragic mistake for the House to pass such an amendment.

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

Mr. CORMAN. I yield to the gentleman.

Mr. HATHAWAY. Mr. Speaker, I rise in opposition to the resolution.

I shall vote against the proposed school prayer amendment, not because I am antireligious or antiprayer, but because I am concerned about the future of religious freedom and religious values in this Nation should this amendment be approved.

The proposal represents a well-meaning effort to nullify the decisions of the Supreme Court holding that the first amendment does not permit State-sponsored prayer in the public schools. It is prompted by a desire to "put God back in the schools." I do not disparage the sincere efforts of those who seek to extend the influence of religion in our society, but I believe that the prayer amendment is not the proper vehicle.

I think it is important to emphasize that the real issue is one of official sponsorship of prayer. that the constitutional prohibition is on official prayers in the public schools. There is no such prohibition on voluntary prayer. The Supreme Court decisions in no way infringe upon individual, personal, and voluntary prayer in America. Only regimented prayers, prayers composed or dictated by public officials to be parroted by schoolchildren, have been struck down. Indeed, I think it is safe to assume that God is still in our schools, that a majority of our schoolchildren do participate in voluntary prayer nearly every day, algebra and chemistry probably encouraging the most fervent supplications.

The Supreme Court decisions regarding school prayer and Bible reading were not the first or only ones to encounter opposition and a resultant effort to reverse the decisions through constitutional amendment. In some cases, such as that involving the Dred Scott decision, a constitutional amendment was adopted. However, never in our history as a nation have the people approved an amendment that would restrict the Bill of Rights or any Supreme Court interpretation of the Bill of Rights.

The first amendment, as well as the other articles of the Bill of Rights, are concerned with certain individual, personal rights. The purpose of the Bill of Rights was to remove these fundamental rights from the vicissitudes of political controversy, to place them beyond the reach of majorities and elected officials. Should House Joint Resolution 191 be adopted, it would be the first time the guarantees of the Bill of Rights have been watered down by amendment. This would set a precedent which may result in the dilution of other basic rights so that we may one day have restrictions placed on our freedom of speech, our freedom to assemble, on our right to a trial by jury; we may be subjected to excessive bail, cruel and unusual punishment, and perhaps even have a citizen required to testify against himself.

Approval of the school prayer amendment will make the Bill of Rights more easily susceptible to impairment by amendment, and will encourage amending the Constitution to overrule every Supreme Court decision that does not receive immediate, universal approval. In considering the amendment before us today, I believe we would do well to heed James Madison's warning that "it is proper to take alarm at the first experiment on our liberties."

The first amendment that guaranteed freedom of religion requires that the government be absolutely neutral in matters of religion. Our country was initially settled as a haven for those persecuted because of their religious beliefs. In fact, government prescribed prayer, as authorized by the British Parliament in the Book of Common Prayer, was the very issue which prompted the Pilgrims to establish their colonly in Massachusetts. Ironically, some of the very groups which had opposed the established church in England proceeded to establish their own churches in the colonies and to impose their own religious beliefs and dogmas upon religious minorities living in their areas. It was because of this history of repressive action in the name of piety that the freedom of religion clause was included in the Bill of Rights.

Should the school prayer amendment be adopted, we would witness the spectacle of school boards and legislatures—instruments of government—fighting bitterly over this or that prayer. New elections and new officials would bring new prayer disputes. The majority that this year may applaud formal prayers in their schools may just as well 10 years from now authorize the recitation of an atheist creed.

Not only does the amendment propel the governmental officials into the business of authorizing and or approving prayers, it also invites endless rounds of emotional litigation in the courts over what is or is not a "non-denominational" prayer. Moreover, once the amendment were adopted and agencies of the state were engaged in making religious determinations, that is prescribing prayers, there would be a serious danger that, the principle of governmental action or involvement in religious matters having been accepted, the way would be opened for suppression of religion by governmental action. If government is evoked to aid religon today, it may by the same authority and with equal legitimacy suppress it tomorrow. Whenever the state has control in any degree over religious life, the way is opened for the denial of religious freedom and for the persecution of those who do not adhere to the officially approved forms of faith.

The proposed amendment speaks rather cavalierly of a "nondenominational" prayer, but no such prayer has yet been devised. There are at least 80 different religious sects in the United States, each with more than 50,000 adherents. Not only has it been impossible for the major faiths to agree on what constitutes "nondenominational" prayer, the problem is complicated by the fact that many churches, such as the Quakers and the Church of Christ, do not believe in ceremonial prayers formulated by one person to be repeated in unison by others. Yet, presumably, this is the kind of school prayer authorized in the amendment, and would be offensive to these denominations.

Although prompted by a desire to be inoffensive, it seems to me that striving for a least-common-denominator prayer demeans it, and reduces prayer to a "to whom it may concern" context. As depicted in a recent cartoon, the Lord's Prayer, reduced to this context, might read:

Our something-or-other, who art in somewhere-or-other, hallowed be thy what-cha-ma-callit.

An extreme example, perhaps, but thought provoking.

The nondenominationalism prescribed in the amendment may very well result in meaningless petitions. Nothing could be better designed to alienate our children from commitment to a vigorous faith than being required to mouth meaningless prayers in the classroom. A tiny plastering of State-approved religious ceremonialism in the public school will do little, if anything, to foster religious attitudes.

Instead, children, as they become aware of the religious differences of our people, should be encouraged to develop a respect for religious freedom. This, it seems to me, can best be accomplished through making them understand the true character of the public school's neutrality: that it stems not from a hostility to religion but from a respect for it and the concept of individual responsibility in matters of religion.

Of course, there is nothing in the Constitution that prohibits the study and discussion of religious matters, including the Bible, in public schools. There is nothing that prohibits public schoolteachers from calling attention to the religious dimensions of various subjects, including the study of the Bible as literature, and the various religious themes inherent in the arts, philosophy, history, and other disciplines, and I feel such study would be valuable—much more valuable than a vague, pointless recitation of a nondenominational prayer.

Reciting prayer in unison in a classroom would be a psychologically coercive exercise. One need not be a psychologist to recognize that subtle forms of coercion may force a child to join his classmates and teacher in the recitation of a prayer which violates his private beliefs. Nonconformity is not an outstanding characteristic of young children.

For members of religious groups which find the prescribed prayer offensive, and for atheist or agnostic children, a major shortcoming of having prayers in schools is that they are separated from the other children. While adults can more easily tolerate such separatism, children should not be subjected to such a feeling. Rather than inculcating a feeling of separatism, it is my view that the school and school experiences should be a training ground for habits of community.

In addition, daily school prayers may be a constant reminder to nonparticipating children of the conflict between home and school, and might well be a disruptive element which would weaken the moral influence of parent and teacher alike. Moreover, to subject children of minority religions or minority beliefs to the inevitable coercion and social stigma of being the "odd-ball," the outsider, is contrary to the spirit of the first amendment and other amendments designed to protect minority rights.

This country has a tradition of pluralism. We have grown as a Nation because of the ideas and contributions of minorities and those who at one time were considered nonconformist. The guarantees written into the Bill of Rights, particularly those of the first amendment regarding freedom of speech, freedom of the press, the freedom to peaceably assemble, and the freedom to petition the government, are there because the founders of this Nation realized that state intimidation is stifling. We need only look at the totalitarian states of the 20th century to realize the truth of this assumption. We must protect the rights of those who are different, for to do otherwise is to invite a staleness, a stagnation, in our national life. Diversity is what this country is all about.

It is my view that we should protect the rights of the minority, while at the same time have a more meaningful religious exercise, by providing, as some schools already do, a few moments of silent meditation in the school day. This practice respects the voluntarism and pluralism that has long characterized religion in America.

In conclusion, Mr. Speaker, I would like to say that I am unreservedly in favor of prayer, but I consider prayer a personal communication between man and his Supreme Being. I, therefore, believe it should be appropriately centered in the home, the church, the synagogue, and in the soul.

I, therefore, urge my colleagues to reject the Wylie amendment.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. MILLS of Arkansas. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, the following is an editorial from one of my State's papers, the Arkansas Democrat:

STATE PRAYER AMENDMENT

The continuing school prayer controversy is basically a matter of individualism versus insecurity.

The individual, the person who is secure within himself, has no problem. He knows that nothing prohibits his praying any time and any place he wants to—at home, at work, at play, at school, even at church. All that the original Supreme Court prayer ruling prohibited was the institutional, group prayer that public school students were forced to take part in. Unfortunately, some silly interpretations have been made of this decision, leading to such ridiculous rules as prohibiting the studying of the Bible, etc. But since schools are a government institution, classroom religious activity clearly is a violation of the constitutional principle of separation of church and state.

The only person who should even want such rituals is the person who is too insecure to pray as an individual and needs the encouragement of the group. For such a person, it probably is not even a prayer, because the term implies some sincerity, and sincerity or even attention is seldom present in group rituals, whether they be prayers, pledges of allegiance or recitation exercises. The more likely effect of forced rituals is boredom or even disgust with the subject matter force fed.

It does the country no service that the school prayer enthusiasts, some of them no doubt with the best of motives, have pressured Congress into considering a constitutional amendment specifically to make institutional "prayers" constitutional. Our lawmakers have more important things to do than help with this attempt to dismantle the Constitution.

Dismantling is just what this amounts to. Nothing is clearer or more essential to our form of government than the separation of church and state. Religious freedom, which includes the freedom not to practice religion, is the very first item mentioned in the Bill of Rights, and for good reason. The founding fathers knew that no tyranny is more dangerous than the tyranny of those who would force their religion on others.

A majority of the members of the House have signed a petition to force the amendment out of the judiciary committee. It is scheduled for a vote in the House Nov. 8. It must be approved by two-thirds of both houses and ratified by three fourths of the state legislatures to become law. We urge our senators and representatives to vote against it.

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

Mr. CORMAN. I yield to the gentleman.

Mr. GIBBONS. Mr. Speaker, I rise in opposition to this amendment in its present form.

Mr. Speaker, I call the attention of the Members of the House to my remarks contained in the RECORD of November 2 on page 38694 in which the gentleman from Ohio (Mr. WYLIE) responded to certain questions of mine about his amendment.

If there can be any doubt as to how you should vote, I suggest that you examine the gentleman's responses to my questions.

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

Mr. CORMAN. I yield to the gentleman.

Mr. GALLAGHER. Mr. Speaker, I associate myself with the remarks made by the distinguished Speaker of the House of Representatives and the distinguished gentleman from New York (Mr. CELLER).

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

Mr. CORMAN. I yield to the gentleman.

Mr. SCHEUER. Mr. Speaker, I rise in opposition to the amendment and associate myself with the remarks made by the distinguished Speaker of the House earlier.

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

Mr. CORMAN. I yield to the gentleman.

Mr. PEPPER. Mr. Speaker, I join my distinguished colleagues in expressing opposition to this amendment.

Prayer is a personal expression and the heavy hand of the State must not be laid upon it.

Mr. CORMAN. Mr. Speaker, in the 1 minute remaining I would like to remind

my colleagues that all Members have permission to revise and extend their remarks and conclude my restating how important it is that we do not act in any way which would jeopardize our freedom of religion as it is preserved by the first amendment.

Contrary to the beliefs of many supporters of the Wylie amendment, there is no one at any level of our governmental process that has the right to curb or interfere with an individual's right to pray.

At issue today is the question of whether or not we are going to tamper with the Bill of Rights and for the first time in our Nation's history allow the government to involve itself in our religious life.

Enactment of the Wylie amendment would permit public school teachers, acting as representatives of the government, to lead our schoolchildren in the recitation of organized prayer.

I am opposing the Wylie amendment today because I am in opposition to giving any representative of the government authority to exert control over the religious beliefs and practices of our children—beliefs and practices that have historically been very personal and outside the realm of governmental participation.

What is at issue today is not the wording of the amendment, for any change in the establishment clause would allow government interference with religion. More important is whether or not we can in good conscience allow the government to infringe on an individual's right which was specifically protected by the framers of our Constitution and which has been preserved throughout the 200-year history of our country. To permit the government to involve itself in our religious life, I think, would be tragic.

If the proponents of the prayer amendment are successful in providing for teachers to conduct organized prayer in our public schools, the next logical step would be to give these same teachers the authority to tell children how to pray and the authority to explain to our children exactly what prayer means. Enactment of this amendment could easily be the first step down a road toward government control of religious activities.

I urge my colleagues to reflect on the very personal nature of an individual's religious beliefs and vote to preserve religious freedom as it is guaranteed by the first amendment by voting in opposition to the school prayer amendment.

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

Mr. CORMAN. I yield to the gentleman.

Mr. FINDLEY. Mr. Speaker, although I signed the discharge petition, I want it known that I am impressed with the case made against this resolution and intend to vote "no."

Mr. WYLIE. Mr. Speaker, how much time remains?

The SPEAKER. The gentleman has 15 minutes remaining.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. WAGGONNER) for purposes of debate only.

Mr. WAGGONNER. Mr. Speaker and my colleagues of the House of Representatives, I have no delusions about what is going to happen here today.

The issue before us has been confused and misunderstood by many well-meaning people, all with the same purpose in mind of wanting to preserve religious freedom in our country. The debate here today proves that point.

People keep saying that they do not want and are in fact tired of too much government interference in the affairs of their daily lives; and the Supreme Court has been no exception.

We have not met here today to amend the Constitution. Congress alone cannot amend it. Recall, article V of the Constitution provides that, and I quote:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution . . . which . . . shall be valid to all intents and purposes, as part of the Constitution when ratified by the legislatures of three fourths of the several states, or by conventions in their fourths thereof . . .

If the resolution before the House is adopted, and I do not feel at this point that it will be, it would be the responsibility of the people acting through their various State legislatures to approve or reject this proposed amendment.

I am not an attorney, and in a way I am thankful for that today, because I feel I can view this question with more objectivity than I could if I were an attorney.

I have arrived at my decision with as much thought and consideration and prayer as any man in the House. I have talked to many people from every walk of life and most of the people are confused. Different people often see the same subject in a different light. However, and this is important, the one thing on which everyone has agreed is they all want to protect and preserve the right to pray.

This is not a matter that can be entirely resolved from a legal point of view. There is another facet to this question of even greater importance, and that is the moral consideration. My decision in this regard is dictated in part by the legal aspect and in part by the moral one. It is for me a matter of conscience. For the life of me, I cannot see how this proposed amendment can in any way damage or weaken the Bill of Rights by our attempts here to clarify this matter. If I thought for 1 minute our efforts here today would weaken the Bill of Rights, I would be the first to offer opposition. The Constitution itself provides for amendments; every amendment since the first 10 has been for the purpose of resolving some particular problem. In the final analysis, I cannot in good conscience base my decision on some of the bogey issues which have been raised or on the fear of what some judge might say.

My purpose for being here today is to attempt to strengthen the first amendment, freedom of religion—which I feel has been trampled on by the Supreme Court—and I am going to do what I believe will best serve the cause of religious freedom and the living God. My interest is in doing God's will, He who I consider to be the only real Judge; and not conform to what some few judges here on earth would want. The greatest freedom we enjoy and which has to be protected at all costs is that freedom which was paid for on Calvary's Cross. I believe that the cause of the living God is best served by passing this proposed amendment.

I have read every piece of correspondence on this subject which I have received, for and against this proposed amendment, and I have given this subject my very prayerful consideratiton.

The word "nondenominational" will be removed from the proposed amendment; and I can find nothing more wrong with it.

We owe to the American people the right to choose whether or not they want to amend the Constitution further in order to preserve religious freedom. They will be given that right to choose if we pass this resolution.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HUNT) for purposes of debate.

Mr. HUNT. Mr. Speaker, we have before us today a measure of vital moral importance to the Nation and, more particularly, to our children. The depth of controversy over the so-called prayer amendment is only one measure of its significance; but its true import lies in the fact that it represents a value: the value of a spiritual heritage whose continued vitality would be jeopardized should this amendment be rejected.

More and more we witness a strengthening of the secularistic tensions within our society. There is no question in my mind that the U.S. Supreme Court's prayer decisions have contributed significantly to the devaluation of religious values accompanied by a commensurate infusion of temporal values devoid of any spiritual consistency. In fact, U.S. Supreme Court Associate Justice Potter Stewart observed in Abington School District against Schempp:

> It might also be argued that parents who want their children exposed to religious influences can adequately fulfill that wish off school property and outside school time. With all its surface persuasiveness, however, this argument seriously misconceives the basic constitutional justification for permitting the exercises at issue in these cases. For a compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are to be truly neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as a realization of state neutrality, but rather as the establishment of a religion of secularism, or at least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

A recent issue of a national news magazine contained a survey of one of

the Nation's major religions in decline. The observations made there with respect to dwindling church attendance, diminishing reliance upon spiritual rituals, and just plain loss of faith, might well be the mirrored reflections of all other major religions.

It will be asked what connection there is between these observations and the prayer amendment. I can think of no better answer to that than the very enlightened thoughts of the world Jewish leader, the Lubavitcher Rabbi, Rabbi Menachem Mendel Schneerson, who declares that he is reinforced in his "conviction of the vital need that the children in public schools should be allowed to begin their day at school with the recitation of a nondenominational prayer, acknowledging the existence of a Creator and Master of the universe, and our dependence upon Him." And he goes on to say that—

> This acknowledgement is absolutely necessary in order to impress upon the minds of our growing-up generation that the world in which they live is not a jungle where brute force, cunning and unbridled passion rule supreme, but that it has a Master Who is not an abstraction * * * that this Supreme Being takes a personal interest in the affairs of each and every individual, and to Him everyone is accountable for one's daily conduct.

He then observes that—

> Juvenile delinquency, the tragic symptom of the disillusionment, insecurity and confusion of the young generation, has not abated; rather the reverse is the case.

As to the correction of such delinquency, Rabbi Schneerson puts the issue in perspective. He says:

> At first glance this seems to be the essential function of a house of prayer and of the spiritual leaders.
>
> However, anyone who does not wish to delude himself about the facts of house of prayer attendance, both in regard to the number of worshippers and the frequency of their visits, and so forth, must admit that shifting the responsibility to the house of prayer will not correct the situation . . . Children have to be "trained" from their earliest youth to be constantly aware of "the Eye that seeth and the Ear that heareth." We cannot leave it to the law enforcing agencies to be the keepers of the ethics and morals of our young generation.

Mr. Speaker, I believe we are already bearing witness to a captive audience—our school children—which, contrary to having to fear the establishment of any religion in the spiritual sense or an infringement on their religious beliefs, is gradually becoming indoctrinated in a belief that religion, in terms of being nothing more than faith in a Supreme Being, is somehow the faithless propaganda of the adult world. I feel confident that the constitutional guarantee of a right to participate in prayer in public buildings will go a long way toward reversing this trend and will give substance to our cherished religious heritage.

Mr. Speaker, everyone is against voluntary prayers in our schools except the American people.

Let the people speak on this subject through this amendment.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. CARTER) for purposes of debate.

Mr. CARTER. Mr. Speaker, the first amendment of the Constitution reads:

> The Congress shall make no law respecting the establishment of religion nor prohibiting the free exercise thereof.

For 173 years prayers were said in every school in our land if they wanted the prayers to be said.

The Government will in no way establish a form of prayer. That is beyond the realm of possibility.

Most opponents of the present resolution read only the first clause saying "The Congress shall make no law respecting the establishment of religion, but the words 'nor prohibiting the free exercise thereof' are overlooked."

Nondenominational prayer is free exercise of religion.

The Lord's Prayer: "Our Father who art in heaven, hallowed be Thy name; Thy kingdom come; Thy will be done, on earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil; for Thine is the kingdom, the power and the glory, forever. Amen."

To me this is a nondenominational prayer. How could it offend a Christian, a Jew, a Moslem, a Brahmin, or a Buddhist. Yet, since the 1962 decision of our Supreme Court, this prayer has not been given legally in the schools in the United States.

Nondenominational prayer in our schools will in no way alter the first amendment, for the "free exercise" clause permits it—the Supreme Court decision notwithstanding.

Let us today "walk uprightly, work righteousness, and speak the truth in our hearts."

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. MIZELL) for purposes of debate.

Mr. MIZELL. Mr. Speaker, I yield briefly to the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Speaker, the Supreme Court has already tampered with the Constitution of the United States and the first amendment. Let us set it straight for the people by adopting this amendment. If one looks at the effect of the Federal Court decisions relating to the first amendment, he must conclude that it is proper to engage in reading dirty books in school, allowing the showing of pornographic pictures in school, but it is not allowable to have prayer in school.

Mr. Speaker, if we look back on the moral attitude of the students before the Supreme Court decision, which had the effect of outlawing prayer, and compare it with the attitude as it exists today, we can only conclude that with the Court-ordered removal of the students' the right to pray to God in school that drugs, crime, and filthy books have all increased on the school campus. In short, the moral fiber of our school students has been eroded. We need to put God back into the lives of students and this amendment will help to do that.

Mr. Speaker, there are those who want to take "In God we trust" off our dollar bill, to remove "One nation under God" from our pledge to the flag, and to stop the Congress from opening with a prayer. These same people favor the defeat of this amendment which would overrule the Supreme Court and lower courts.

Mr. Speaker, I want the schoolchildren to have the same chance to pray as we do in the Congress and hope that this amendment will pass.

Mr. MIZELL. Mr. Speaker, I believe the issue before us today is the most important piece of legislation that has come before this House in the time that I have had the privilege to serve.

In Psalm 55, David said:

> As for me, I will call upon God, and the Lord shall save me. Evening, and morning, and at noon will I pray, and He shall hear my voice.

I hope this afternoon that we will approach the subject of prayer with the sincerity and the reverence that this subject deserves.

Mr. Speaker, I would like to take my time to discuss from a layman's viewpoint what I see as the key issue before us today. I am sure there will be many hypothetical questions raised about what this amendment will or will not do, but to me the issue is crystal clear.

If you are opposed to voluntary participation in prayer in public facilities, then you oppose this amendment. If you favor permitting voluntary participation in prayer in public facilities, then you support this amendment.

I favor the individual's freedom to voluntarily participate in prayer. Therefore, I am going to vote for this amendment.

To those who say that this amendment is not needed, I would say to you that in my humble opinion we have several court decisions that make it imperative that this resolution be passed here today and that it become law as soon as possible.

I would like to call the attention of my colleagues to two of these court decisions.

In Leyden, Mass., the local school board passed a resolution providing for 5-minute period to be set aside before each schoolday to allow voluntary prayer among students and teachers.

In Netcong, N.J., the students were permitted by the local school board to assemble before school in the gymnasium and participate in the Chaplain's prayer from the CONGRESSIONAL RECORD, followed by a period of meditation.

Both of these plans were struck down, by the Supreme Courts of Massachusetts and New Jersey, respectively, and the U.S. Supreme Court refused to disturb either decision.

For those who still say the amendment is not needed to preserve the right of individuals to participate in prayer in public buildings, I suggest that you ask the students in Leyden, Mass., and Netcong, N.J., if their rights have been denied.

These are only two examples. In every case that has come before the court dealing with the subject of prayer, regardless of the circumstances, the court has denied that right as being unconstitutional.

And I predict that if this amendment is defeated, then every case in the future that is brought before the courts dealing with prayer, regardless of how voluntary the exercise might be, will be struck down.

Mr. Speaker, I do not believe Government should force acts of worship. This I would oppose, just as firmly as I support the right of American children to participate in prayer if they desire to do so.

A tremendous price has been paid by each generation down through the years for this freedom, and the cost has been far too high to be forfeited now.

Today, after 196 years of independence and religious freedom, I do not believe the 92d Congress wants to go on record by voting against this amendment, thus saying to the Nation and the world that the free exercise of religion will no longer be guaranteed to the citizens of "the land of the free." God forbid that this right ever be denied.

The opportunity is ours today to take a positive position. Rather than voting to restrict religious freedom, we can act to strengthen it by passing this amendment, and by passing it reaffirming the right to free exercise of religion granted to us under the Constitution.

But that is more than an opportunity. Passing this amendment is our duty, as representatives of the people, as executors of their will, as guardians of their precious freedoms.

I strongly urge my colleagues to see their duty as I have seen it, and vote with me for passage of this amendment.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE) for purposes of debate.

Mr. DEVINE. Mr. Speaker, it is still up there, right above the Speaker's head. It says, "In God we Trust." I do not know how long. I understand the Civil Liberties Union lawyers' next target is to remove, "Under God" from the Pledge of Allegiance.

If given the opportunity, it is my understanding, the gentleman from Alabama (Mr. BUCHANAN) will offer an amendment to the Wylie resolution that would strike the word "nondenominational" and substitute in lieu thereof "voluntary." That should solve the problem for some of those who have been spooked by the lobbying tactics of the so-called church leaders and church groups.

Mr. Speaker, I resent those who have been impugning the motives of the gentleman from Ohio (Mr. WYLIE) as indicated by some people, because I know of no more sincere person than the gentleman from Ohio.

I know of no more sincere man in the House of Representatives than the author of this Wylie amendment. He had the courage to bring this before the House.

You know, I know, and God knows it would not have been before us had it not been for his courage in presenting the discharge petition, because this issue has been before the Judiciary Committee for many years.

The lobbying tactics, I think, are wrong. The church leaders, in my opinion, are generals without armies because, if you will poll the members of the congregations, they overwhelmingly favor prayer in public schools.

The Supreme Court decision was such that the public has been confused about this. The public says:

> Well, you can read dirty books, but you cannot say prayers in public schools.

Do not be misled by the traditional separation of church and state arguments. The same clergymen who trumpet this cry are the first in line with hat in hand, seeking Federal Government money for all types of church-related matters.

The public is entitled to the opportunity to make a decision on this issue. The safeguards are already provided—two-thirds of the House have to agree, two-thirds of the Senate, and then it goes out across the Nation and three-quarters of the legislative bodies have to decide.

Are you afraid to let them speak? That is the issue involved. I urge the House to vote favorably on this Wylie amendment in order that the people may have an opportunity to speak.

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

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

Mr. ICHORD. I am sure all Members who have spoken against this amendment will concur in the substitution of the word "voluntary" for "nondemoninational."

I rise to speak in support of the prayer amendment which is now before the House of Representatives. It seems a little strange to be speaking in favor of prayer. This would tend to give the impression that there are some in this House opposed to prayer. Most likely this is not the case. Rather the question is whether or not voluntary prayers may be offered in the public schools of this country.

Mr. Speaker, this country and our form of government were founded by men with a strong reliance upon the providence and sovereignty of Almighty God. In the very first words of the Declaration of Independence the justification for our form of government is found in the structure of God's creation. Man has a God-given right to be free. The Pledge of Allegiance states simply that we are one Nation "under God." Our currency tells every citizen and all foreign visitors "In God We Trust."

The first amendment to the Constitution of the United States guarantees us freedom "of" religion. This amendment prohibits the Government from establishing any form of State religion. The first amendment is a basic part of our heritage and is an essential element of the freedom we cherish in this country. However, the first amendment does not guarantee freedom "from" religion. It does not state that we are an irreligious or ungodly Nation.

Prayer is as much a part of our heritage as freedom itself. When the Pilgrims first landed at Plymouth Rock in 1620, they paused to pray. As a matter of fact prayer is a universal element of all religions and one of the most natural acts of man. The tiny baby learns to pray on his mother's lap and the last utterance of the believer is most frequently a prayer. For over 300 years after the Pilgrims settled in this country prayer was used in the schools of this Nation to open school activities, to begin classes and student assemblies, football games, and many other activities. When the court forbids children to say voluntary prayers in school they are being denied, as Justice Stewart stated:

> The opportunity of sharing in the spiritual heritage of our Nation.

Children are not always able to say the most elaborate or liturgically correct prayers but I have always felt that the Almighty God heard their prayers in a very special way. In 1965, a group of students asked their principal if they could have a voluntary prayer period of their own to say together the simple prayer:

> Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything.

The principal refused, because he felt that this would violate the Supreme Court decisions. The parents brought a suit to prevent the principal from forbidding these children from praying at their own initiation. In Stein against Oshinsky the court decided:

> The constitutional rights to free exercise of religion and to freedom of speech do not require a State to permit "student-initiated" prayers in public schools; the Court of Appeals would direct judgment dismissing the complaint.

The Supreme Court denied certiorari allowing the decision of the court of appeals to stand.

Three years later a kindergarten teacher attempted to leave the word "God" out of the prayer in order to comply with the Stein decision. Her children wished to say:

> Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you for everything.

In DeSpain against Dekalb a Federal court of appeals held that the teacher could not have the children recite this ancient prayer with the word "God" omitted, because everyone knows what "you" means and the "intent is to offer thanks to God." Once again the Supreme Court denied certiorari leaving the decision of the Federal court of appeals to stand.

Courts refused to allow school children in Netcong, N.J., to read prayers each morning that had been used a few days before to open congressional sessions; in Long Island, N.Y., where the reverent singing of a verse of "America" in the public classroom was declared a violation of the Constitution. Some principals have even discontinued the use of the Pledge of Allegiance to the Flag, because they fear that the "under God" phrase might violate the court rulings.

Mr. Speaker, it appears to me that

there is great confusion throughout the country as to the intent of the constitutional amendment we consider today as well as its effect. The opponents are using every argument conceivable to defeat it. Some say it does nothing; others say it will permit the authorities to establish nondenominational religion. Such an interpretation, in my opinion, is not logical. Certainly that is not the intent. The intent is to make clear that schoolchildren do have the right to participate in voluntary prayer. The decisions which I have cited above definitely show that the courts are not making this interpretation.

Mr. Speaker, the time has come to settle the controversy. The Constitution never intended to forbid the recitation of voluntary prayers in public schools. This amendment will establish that principle once and for all. The people are overwhelmingly in favor of this amendment as all the polls show. This is a nation under God whether all of the people like it or not.

Mrs. ABZUG. Mr. Speaker, if we vote today to approve this resolution, we will have gone a long way toward the Orwellian Superstate. In 5 or 10 years, those who now seek to impose public prayer by constitutional amendment may by the same amendment be forced to recite paeons to the state, or as one scholar suggested, a prayer to the President." Even those who could pray to this President might find themselves unable to pray to the next one.

It has happened before, many times in other countries. One of our Nation's greatest strengths is that it has withstood repeated attacks on the first amendment guarantee forbidding any establishment of religions; this resolution is another such attack.

Not just prescience but experience compelled the Founding Fathers to make this the first right of the Bill of Rights. Government-prescribed prayer was the basic issue which led to the founding of the Pilgrim colony of Massachusetts, and then, sadly, to the establishment of a different church and prayers as official, so that religious persecution started again.

Institutionalized prayers may seem a long way from persecution; but to the child who is a Jew, Buddhist, Moslem, Adventist, or nonbeliever, refusal to conform can lead to subtle and not-so-subtle persecution. Absenting oneself under the voluntary provisions suggested would doubtless provoke the taunts of schoolmates and the disapproval of authorities.

And what of teachers who do not wish to participate in public devotionals? Would acceptance of the State-approved prayer become another form of loyalty oath, a condition of employment?

Most students and teachers would choose to mumble the words and go through the ritual—thus defiling the very meaning of religion and deepening the cynicism we deplore in today's youth. Already they question the sincerity of our beliefs when compared with our actions; they are turned away from true religious values by canned formulas.

If we would persuade them of our values, let us act to end war and injustice. So long as the thunder of our Asian bombing rings in their ears, they will not hear or heed any prayer written for them by a group of nondenominational politicians.

Nothing is more intensely personal than the way in which we revere life, or worship God, or in whatever way, express our oneness. And the very diversity of our ways is a major strength. Yet this diversity would be rendered suspect under the proposed amendment; and suspicion soon would lead to hostility. The one thing we do not need in our schools, in our cities, in our raw and hurting land, is increased hostility.

Already we are witnessing bitter division over school integration and busing; over different life styles and subcultures. In some areas we have seen the raising of swastikas and the burning of synagogues. In other countries, fierce religious wars rage. Let us not start here a struggle among different groups to become the one official religion, banning all others.

Advocates of this amendment demand free public prayer as though public prayer were not free now. This is misrepresenting the Supreme Court decisions of 1962 and 1963 in an attempt to overthrow those decisions. Anyone can pray in any place at any time; teachers can teach, and students study religion as such. What is prohibited is the imposition of any one group's religious expression upon others.

The Supreme Court decisions in Engel and Abington held that the first amendment prohibited public schools from establishing religion, and that the required saying of prayers constituted an establishment of religion. By the same standard, Bible reading is the right of anyone at any time, but it must not be forced upon others. And since the public schools are supported by taxpayers of all beliefs, and of no beliefs, these schools may not be used for the advancement of any one belief.

We must remember that the Supreme Court decisions dealt with the power of governments, not the right of persons, whereas the proposed amendment deals with the right of persons. In my view, it clearly invades privacy and infringes upon the basic right of belief or nonbelief.

We are fortunate that the delicate balance between church and State has been maintained through these years.

The Wylie prayer amendment threatens this delicate balance. Its implementation would do psychological damage to members of all religious groups; by inflaming conflicts between them, it would intensify hostilities; it would render meaningless the true spiritual content of all religions, and would offend the sensibilities of the very persons it aims to reach, the young.

The deceptively simple resolution before us puts those who oppose it in the position of appearing to vote against God. Rather than conform to this simplistic view, it is our duty to vote no—explaining to those constituents who disagree that in so doing we protect their most precious freedom. that of personal belief, and of expression of that belief in the personal, private fashion of their choice.

Mr. GAYDOS. Mr. Speaker, I rise in support of House Joint Resolution 191, to permit voluntary participation in prayer in public schools. To oppose this proposed amendment to the Constitution on constitutional grounds would not only be misleading, but would stretch the imagination to the breaking point. The amendment before us today simply allows local school boards or other authorities administering the functions of local schools the right to decide whether or not voluntary prayer will be permitted in their jurisdiction.

The first amendment to the Constitution states:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

There are millions of public school students who are being denied the right of free exercise of religion as a result of the Supreme Court decision.

Over the past several months, I have conducted an in-depth poll of my constituents in an effort to determine their thoughts concerning the issue facing us today. Strongly in favor of returning prayer to public schools were 94 percent. This amendment in no way establishes a religion. It does not say that a local school authority must institute some form of prayer. I again emphasize, it merely allows them the right to reflect the wishes of the people within their jurisdiction.

There are those who would argue that a separation of church and State must be rigidly maintained. I am in complete concurrence with these views; but, I also submit that in no way does this amendment violate the separation principle. Certainly no more so than the opening prayer at the beginning of each session of the House and Senate or the phrase "One Nation Under God" in the Pledge of Allegiance; or the motto "In God We Trust" on our national currency.

Our Nation is deeply rooted in the principle of the freedom of religious expression and the passage of this resolution will assure that the people of this great Nation will continue to have the right to worship whomever, wherever, and whenever they desire according to the dictates of their own conscience.

It is my fervent hope that this resolution will receive overwhelming approval by this body.

Mr. JAMES V. STANTON. Mr. Speaker, I join the extensive opposition to House Joint Resolution 191, the proposed constitutional amendment aimed at authorizing so-called nondenominational prayers in the public schools and other public buildings. I have given close attention to arguments on both sides of this issue and, while I do not challenge the sincerity and good intentions of the proponents, I do doubt the wisdom of their proposal.

I find myself persuaded, for example, by the statement of the U.S. Catholic Conference, the organization of the Catholic bishops of this country. The conference has warned that House Joint Resolution 191 constitutes "a threat to the existing legality of denominational prayer." The reasoning is that the proposal mentions only nondenominational prayer and, as Bishop Joseph L. Ber-

nardin, General Secretary of the Conference, points out:

The subtle implication of the amendment, therefore, is that "denominational" prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.

Bishop Bernardin continued:

Passage of the amendment might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved.

I have been greatly influenced as well, Mr. Speaker, in this position I have taken, by a detailed and learned analysis submitted to me by Dr. Anthony J. Iezzi, Associate Professor of Philosophy and Government at St. John College in Cleveland, Ohio.

Dr. Iezzi wrote:

Few realize the almost impossible task of designing such prayer and devotional services so that they will be 'nondenominational.' Past history has demonstrated that the problem gets into the politics of school board membership in terms of which candidate would favor which kind of prayer. This is precisely what the religion clauses of the First Amendment were designed to avoid. Religion was never to become a matter of partisan politics. Approving this amendment would in fact produce such a situation.

Dr. Iezzi also found much to criticize in "a prayer so neutralized to please everyone that it offends the true believer in its blandness."

Mr. Speaker, the voluminous mail I have received on this subject came to me predominantly from persons and organizations unalterably opposed to House Joint Resolution 191. Among these organizations were virtually all the major ones representing the Protestants, Catholics, and Jews of our country. When so many people of strong religious faith line up almost entirely on one side of a given issue—which is, after all, a religious, as well as a constitutional issue—I find that I must stand with them.

Mr. COTTER. Mr. Speaker, as with most Members I have given much attention to the issue of school prayer. My mail has been heavy from both supporters and opponents of this resolution. I have studied and restudied the issue carefully, keeping in mind our Nation's religious heritage and its relationship to the first amendment.

After the most careful study I decided to vote against the Wylie resolution and have informed many of my constituents of my reasons. For the benefit of my colleagues I will reiterate these reasons.

While I understand, and have sympathy for the idea of prayer as a valuable addition to the development of children, I believe that the amendment which especially allows nondenominational prayer raises more serious questions than it answers.

The most perplex question is: Who will compose the nondenominational prayer? Organized religions, to my knowledge, have never agreed on the acceptability of a nondenominational prayer. Therefore, the burden of constructing such a prayer will fall to the State officials, most probably school officials. I do not believe that government employees have the right to dictate the content of prayer, even the nondenominational content of a voluntary prayer.

Second, contrary to many implied assertions, the prohibition of a State-written prayer does not deprive the child of the right to pray. Traditionally, and I believe correctly, the family and the church or synagogue, have been the primary institutions concerned with religious education, including prayer. For those parents and children who desire additional religious education, private religious schools, or weekend religious classes are available.

Therefore, I do not believe that this constitutional amendment would serve the laudable goal of making religion an important part of the child's life. This can only be done by specific instruction, complemented, of course, by example and action that exceed anything permitted under this proposed amendment.

Wholly apart from these specific reasons is my concern over tampering with the Bill of Rights. Our Founding Fathers and our subsequent history have successfully precluded any attempt to have Government intrusion in the area of religion. This is not to say that our Government has been against religion, only that we as Americans, thanks to our Constitution and our actions, have determined that the Government has no right to establish a state religion or even an official state prayer.

I believe that the first amendment freedoms together form the bedrock of our unique system of government. They are what separates this Nation from so many others in this troubled world, that no matter what else the Government may do, even when sanctioned by a majority of its people, we the citizens of this country are free to speak, to petition our Government, to assemble peaceably, and to communicate our ideas to one another.

For these reasons, Mr. Speaker, I urge my colleagues to vote against the Wylie resolution.

Mr. STEIGER of Wisconsin. Mr. Speaker, the vote on House Joint Resolution 191, the so-called prayer amendment, is one of the most difficult votes the Congress has faced in recent memory. This proposed amendment to the first amendment of the Constitution states:

Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

I deeply sympathize with the many sincere Americans who support this amendment. As a parent, facing the complex task of raising a child in a world that seems to be growing increasingly amoral, I know that it is natural to seek all means of support for the job of attempting to pass on to our children our own deeply felt standards of morality, ethics and religion. Unfortunately, study has convinced me that the prayer amendment will do little to help us accomplish our purpose. In fact, it may have far more potential for harm than for good.

The amendment was offered in response to Supreme Court decisions regarding prayer in the schools. Support for it in many cases, I fear, originates from a misunderstanding of just what the Court forbade. The Court did not prohibit schoolchildren from praying in school. It did prohibit state composed and governmentally required prayers.

The Court did ban prescribed prayers and prescribed Bible reading in the public schools. The Bible and religion may be taught in public schools, however, when presented objectively as part of the regular educational program. In fact, then, the Court has not forbidden prayer in public facilities. Voluntary prayer is already permissible in all public places. The courts have only ruled against Government sponsorship of, subsidy of, and involvement in prayer and worship services on the grounds that it violates the first and 14th amendment prohibitions against lawmaking by Congress or the States "respecting the establishment of a religion."

Now the question arises, "In what possible way could an amendment simply permitting nondenominational prayer be of any harm?" To begin with, there is the problem of defining "nondenominational" prayer. Is there such a thing? In light of our great religious diversity, it seems highly unlikely that a prayer acceptable to all religions as well as to all those who subscribe to no religious belief could be formed. Even assuming such a prayer could be composed, who would judge it? Clearly, at least by indirection, the prayer amendment would put local, State, and Federal governments in the position of ruling on the suitability of such prayer. Various religious groups have spoken out strongly against the amendment on this point. The three major American Lutheran churches, the United Presbyterian Church, the Executive Council of the Episcopal Church, the Baptist Joint Committee on Public Affairs, National Catholic Conference, the American Jewish Congress and a host of other religious groups and leaders have issued statements protesting that the amendment would open the doors for governmental intrusion into the religious affairs of the people.

As questions and challenges arise to nondenominational prayers used across this country, a patchwork of rulings from governments and courts could develop. Past history has shown that in matters of devotional issues, those which reflect the views of the religious majority in the community win the support of school board and local officials. Should this situation arise, we could be faced with the support of majority religious beliefs at the expense of minority creeds. As a matter of fact, Wisconsin has had a history of this very problem. In the latter decades of the 1800's, religious strife resulted from the desire of the majority in some school districts to exercise their form of worship in the schools. The Wisconsin constitutional provisions found in article I, section 18 and article 10, section 3, were

interpreted by our State supreme court to forbid sectarian instruction or acts of worship in public schools. The case was brought by Catholic parents who objected to having their children subjected to the reading of the King James version of the Bible. The court held that reading Bible passages was sectarian instruction and an act of worship. Thus, we in Wisconsin should feel a special concern about possible implications of the amendment.

Various religious and civic leaders have expressed another related objection. Not only could nondenominational prayer open the way for Government intrusion into religious affairs, it could, in fact, lead to the establishment of a common denominator type of religion. The Board of Social Concerns of the Lutheran Church in America, in a letter urging ministers to encourage opposition to the amendment, quotes from a joint statement by three Lutheran church body presidents, and representatives of six U.S. Protestant denominations in opposition to amending the Bill of Rights:

> Assuming such a prayer could be composed. . . . A nondenominational consensus prayer could only serve to reduce religion to its least common denominator, to neutralize it and finally to create what might be called a nonsectarian public school religion. We do not believe that even the proponents of the Wylie amendment wish such a result.

Finally, the amendment embraces all public buildings. Does this mean that any tax supported building could come under the jurisdiction of authorities faced with ruling on the suitability of prayers? The implication would seem to be that only suitable nondenominational prayers are acceptable in public buildings. The specter of such problems as tax assisted but denominationally church-run hospitals, nursing homes, and similar institutions possibly having to comply with some such standards is disturbing.

Mr. Speaker, while this statement was written before the Buchanan amendment was offered, debated and adopted I am still persuaded the amendment should not be adopted.

I believe that substituting "voluntary" for nondenominational is an improvement and would necessitate some modifications in my statement. But the change also raises questions—for example, are denominational prayers now to be proper and, if so, who is to determine which denomination and how will minority creeds be protected?

My fear that a majority would impose its will on the minority is not lessened by the "voluntary" language of the amendment nor is my concern that government as represented by a school board or other body will continue to play a role in prescribing a belief.

Thus, Mr. Speaker, based on my belief that the Wylie amendment as amended can only lead to unnecessary divisiveness and may, in fact, pose a grave threat to the free exercise of religious beliefs, long a cherished American right, I will not support the amendment.

Mr. LEGGETT. Mr. Speaker, many people apparently believe that prayer in public schools is presently prohibited. The belief is in error. The first amendment to the Constitution of the United States reads in part—

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Thus, any restrictions on the right of citizens to pray is expressly forbidden. Any child may pray at any time, in school or out, and he may study religion as an academic subject. This is the meaning of the free exercise section of the above quote.

But while the first amendment rules out any restriction of religion, it also rules out Government participation in religion. This is the meaning of "Congress shall make no law respecting an establishment of religion." Thus the Government is prohibited from maintaining a building or an institution, such as a public school, which is used for religious purposes.

So while a child may exercise his individual right to pray while he happens to be in a school, the school may not institute prayer as an official or formal activity. It is this latter prohibition that the school prayer amendment seeks to change.

I do not feel it should be changed, and I shall vote against the amendment.

Our Founding Fathers framed the first amendment with a firm determination that church and state should be absolutely separate. They intended that the United States would be a Nation in which everyone would be free to practice his religion without government interference, and they felt that the only way to be sure there would be no interference was to keep government out of religion entirely.

In my view they were correct.

I do not doubt the sincerity of those who support the prayer amendment, but let us just think about its effect. It would provide a unique opportunity for prayer, but for whom? For those children who do not attend church, whose families do not say a prayer at breakfast or before sending the child to school, and for those children whose religious beliefs are not strong enough to motivate them to spontaneous prayer while in school.

Does this description apply to the supporters of the amendment? Surely, it cannot. Surely, those whose devotion to prayer is so great that they would mount this major lobbying campaign are sufficiently religious to give their children strong religious training at home. Rather, this amendment must be directed at the children of families who do not support the amendment.

In short, we have one group of Americans trying to impose a religious practice on the children of other Americans. This is exactly what the first amendment was designed to prevent, and it is exactly why this proposed amendment should be voted down.

Mr. HUTCHINSON. Mr. Speaker, soon after it was announced that 218 Members had signed a petition to discharge the Committee on the Judiciary from further consideration of House Joint Resolution 191, the proposed school prayer amendment, this Member polled the people in his congressional district. The text of the school prayer amendment was set forth without comment and delivered to all postal patrons in the Fourth Congressional District of Michigan, with a ballot to express favor or opposition to the proposal. The ballot was arranged to permit a man, his wife, and other voters in the household to vote separately.

The response was unusually heavy as polls go. As of this morning, ballots have been returned by 35,540. Of these 33,164 are in favor and 2,376 are opposed. Out of respect to popular sentiment so overwhelming, I shall vote for House Joint Resolution 191.

I may add, Mr. Speaker, that the letters received from my congressional district on the subject, well thought out and deeply sincere on both sides of the issue, are much closer together in numbers than the poll generally, but they, too, number more in the affirmative than in the negative.

But before casting my vote, I express my strong personal reservations about the wording of the proposal now before the House. I submit Mr. Speaker, the rules of the House ought not permit the consideration of proposed constitutional amendments through the route of a discharge petition. Changes in the fundamental law of the land ought to have the most searching inquiry. They ought to be mandatorily subject to procedures which would require public hearing on the exact proposal, to be thoroughly worked out in committee, to be extensively debated on the House floor, and to be open to floor amendment.

Except for debate on a single floor amendment, the proposal before us has not been subjected to any of these testing, perfecting, and challenging procedures. It stands before us without committee consideration, without public hearing, without benefit of committee report, and with little opportunity for debate on the floor.

But it will do something to the Bill of Rights. It will amend the freedom of religion clauses of the first amendment. For the first time in our history, it proposes to make a change in the Bill of Rights, the most cherished part of our Constitution. Its proponents, on the other hand, argue with deepest sincerity that the school prayer decisions of the U.S. Supreme Court made the change in the Bill of Rights and this proposal seeks only to restore the first amendment to its historic usage. During the first 170 years of the first amendment, neither the establishment nor free exercise of religion clauses were construed to outlaw prayer and Bible reading in any public assembly, so long as participation was voluntary. That included the public schools. A respectful toleration for the religious beliefs of others, the practice of the Golden Rule, was a practical standard to which there was general adherence.

Then came the Supreme Court decisions in Engel against Vitale—1962—and the Schempp and Murray cases—1963. The 1962 decision struck down a State formulated prayer which was being used in New York schools. The 1963 cases construed religious exercises in the public schools consisting of a recitation of the Lord's Prayer and Bible readings as violative of the establishment clause of the first amendment.

The proposed constitutional amend-

ment which the House is now so briefly considering would not restore Bible reading. Its wording is limited to prayer. In my opinion the House improved the language when it substituted voluntary prayer for nondenominational prayer as the original proposal had it. But I foresee litigation surrounding the words.

It seems ironic that those who think the Supreme Court's prayer decisions favored atheists over believers should find a solution through resort to a constitutional amendment which must itself be interpreted by the Supreme Court. In addition to the existing establishment and free exercise of religion clauses of the first amendment, the Court will have new words to interpret, to give meaning to. The Court may not only have to determine what voluntary prayer is. It will have to determine what is a public building within the scope of the Constitution. The public building must be supported by public funds. What does the word support mean? Must the support be direct, by the appropriation of public funds, or would indirect benefit be sufficient? What are public funds? The Court would also be called upon to define the word participate.

In the process of adding flesh to the bare words of the constitutional provision, the Court will act case by case. The Court will not undertake to do it all at once, as would be the situation if the Congress were writing a law, but will find meanings necessary only to the decision of the case before it. The process will take years, during which time there will be much uncertainty as to the scope of the amendment, much litigation in the courts, all to determine just what is meant by participation in nondenominational prayer in public buildings supported by public funds.

The first amendment says that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. Under the proposed amendment we consider today Congress may still make no law; but the Court can, and must through its interpretation of the meaning of the proposal. It might be argued that the necessary and proper clause of the original Constitution as found in article I, section 8, might give Congress the power to clarify by statute the meaning of the words and to enunciate a national policy. I think not. This proposal significantly does not include the usual section found in recent Constitutional amendments giving Congress power to enforce it by appropriate legislation. The first amendment still prohibits the Congress from making any law on the subject. Thus, almost uniquely, here will be a Constitutional provision about which Congress may not state national policy. Only the Supreme Court, the agency of Government which in the minds of proponents made the original mistake in the school prayer decisions, will be able to make national policy under this amendment.

I was impressed by the respectable percentage of people who returned the poll and indicated they favored the amendment but who nevertheless criticized its wording. Many undertook to reword it, most frequently to make it clear that only voluntary participation was intended. The people of the Fourth District of Michigan, though overwhelmingly in favor of the purpose of the proposal, are not wedded to its present wording.

When the school prayer issue was before us in the 88th Congress, this Member introduced a proposal which he quite naturally believes would be a better wording than the one now before us. His proposal, House Joint Resolution 897—88th Congress—read as follows:

> State Laws permitting the offering of prayer and scriptural readings within the public schools, if participation therein is voluntary, shall not be construed as laws respecting the establishment of religion.

Because this Member thinks the discharge petition route is so inappropriate in the case of constitutional amendments, he did not sign the discharge petition, and he did not vote here today to discharge the Judiciary Committee of which he is a member. But in deference to the sentiments of his constituency so overwhelming he will vote to send the proposal to the Senate and at such time as the Senate Judiciary Committee may hold hearings on it he will urge its careful redrafting.

Mr. GOODLING. Mr. Speaker, I rise in strong support of House Joint Resolution 191, legislation designed to amend the U.S. Constitution to permit prayers to be conducted in public schools and other public institutions.

I have introduced to the current Congress, as I have to two previous Congresses, legislation of this nature. I have also signed the discharge petition responsible for bringing the prayer bill to this floor for consideration.

In my congressional experience, I do not know one piece of legislation that has prompted the steady flow of correspondence that has been occasioned by this prayer bill. A large majority of this correspondence, possibly 93 percent, has been in favor of prayer legislation, echoing the sentiments of citizens from all walks of society. This is consistent with a recent nationwide poll taken on this subject.

This legislation recognizes the fundamental truth that our Nation has a religious background that is deep and broad. The Mayflower Compact was written in November of 1620, beginning with this prayer:

> In the name of God . . . we, having undertaken for the glory of God, do by these presents solemnly and mutually in the presence of God, and of one another, covenant and combine ourselves together into a civil body politic.

The kneeling figure of George Washington, through the bitter winter at Valley Forge, is a prominent and proud part of this country's religious background. It was Lincoln who said that he had been driven to his knees many times, for he had no place else to go. During the Constitutional Convention and in the course of the Revolutionary and Civil Wars, the leaders of America sought divine guidance through those uncertain days of our early American history.

While this legislation undeniably has strong support from a broad sector of the American public, there are some who object to the measure on the grounds that it violates the principle of separation of church and state implicit in the language of the first amendment of the Constitution which says:

> Congress shall make no law respecting an establishment of religion.

By an odd coincidence, a majority of these objectors are clergymen, but strangely enough they are silent about the language of the first amendment that immediately follows the previous language of the first amendment that immediately follows the previous language and says that where religion is concerned:

> Congress shall make no law . . . prohibiting the free exercise thereof.

In brief, this separation of church and state principle establishes that there shall be no Government-sponsored religion or religious exercises, and I, along with the other sponsors of this prayer legislation, ardently support this concept. We stand in firm opposition to the imposition by the Federal Government of any religious doctrine on any part of our citizenry.

The legislation that is now before this House of Representatives does not violate this principle, for it provides that nothing in the Constitution shall abridge the right of persons lawfully assembled to participate in nondenominational prayer; that is, prayer which is nonsectarian in nature.

Nondenominational prayer cannot, by its nature, be offensive to Protestants, Jews, or Catholics, for its appeal is to a superior being in general and not in particular.

I have heard ministers, priests, and rabbis present prayers in public institutions which while impressive and moving, could not be considered denominational or inconsistent with the separation of church and state doctrine.

Both this House and our counterpart regularly open with a prayer as a prelude to our deliberations on complicated issues of the day. Should our schools, which are engaged in the serious task of preparing our youths of today to become informed and responsible citizens of tomorrow, be denied a similar privilege?

I strongly urge that the House of Representatives give a resounding vote of approval to House Joint Resolution 191.

Mr. JACOBS. Mr. Speaker, had I the opportunity I would offer this amendment:

> On page 2, line 1, after the word "to", strike "participate in nondenominational prayer" and insert "observe a moment of silence, each in his own way."

This, I think, is the solution to the problem we face and this solution would be fair to everyone. I can not quite say that for the language before us.

Mr. SCHERLE. Mr. Speaker, on an issue as personal as prayer, one can only speak from personal experience. It has been my experience—and I know it has been shared by millions of others—that prayer is the most normal and natural act a human being can perform. Prayer brings peace and tranquillity in the midst of difficulty and frustration. It encourages humility, a quality we all need to

foster in ourselves. A hundred times a day we can take a surcease from the hectic round of activities to call on God for guidance in our problems and—I do not mean this in an irreverent sense—it is a "pause that refreshes."

Who would deny to your young men in military service the comfort that such a habit of mind can bring? And where better to develop the habit of prayer than in our schools where children are supposed to learn the best attitudes we can teach? There is no greater resource we can give our children than the resource of prayer. When they are young they do not really know how often and how desperately they may need it, but when they are young is the best time to teach them its value. Abraham Lincoln once said that he was frequently driven to his knees in prayer because he had nowhere else to go.

The Supreme Court would prevent us from passing on this priceless solace to our children in school. I heartily disagree with the Court's interpretation and I know that many of my colleagues here today do, too. My compliments to the many Members of this House—Members of all faiths—who were courageous enough to sign the discharge in the face of 8 years of intransigence on the part of the Judiciary Committee. My particular gratitude goes to the Honorable CHALMERS WYLIE who introduced this amendment on our behalf and on behalf of all the future generations of schoolchildren who hopefully will benefit in ways we cannot even foresee from the action we take here today.

Mr. LENT. Mr. Speaker, I rise in support of the proposal. For over 170 years, the compatibility of prayer in the public schools and the first amendment to the U.S. Constitution was never questioned. For all but a minute portion of this Nation's history, children have been permitted to observe their religious convictions when and where they chose.

Now we are being told by some that to restore the freedom of children to observe their religious convictions when and where they choose, we are somehow muddling the Bill of Rights to the Constitution.

I do not adhere to that argument. The sentiment of my Fifth Congressional District constituents has been overwhelmingly in support of this proposal, Mr. Speaker, and I will reflect their views in voting on this measure.

In concluding my remarks, I would like to take this opportunity to salute one of my predecessors, the man whose efforts first brought this important proposal to national attention. That gentleman, Mr. Speaker, is the Honorable Frank J. Becker, a former colleague of many of you, who is with us today. Frank Becker's efforts on the matter we address today began in this body 8 years ago, and it is fitting that he should be here today to witness their culmination. Mr. Becker served the Fifth Congressional District of New York, and the Nation, well, and I salute him here, Mr. Speaker.

Mr. ROSENTHAL. Mr. Speaker, I am proud today to stand in the memory and footsteps of our Founding Fathers for the principle of religious freedom.

The first immigrants to the shores of our country, were driven in good part to escape from religious persecution. As this country took shape and the great foundational documents were drawn; the Declaration of Independence, the Constitution of the United States, these memories burned brightly. With infinite care and inspired wisdom, they determined to prevent the kinds of persecution to which they had been subjected in the past.

From this heritage then, was the Bill of Rights conceived and forged. The Bill of Rights, the cornerstone of our freedom and liberties has been defended by some and ignored by most. Now, in the form of the Wylie prayer amendment we have the first concerted attack on our Bill of Rights. This is the first constitutional amendment to propose a restriction to the Bill of Rights. Other constitutional amendments have expanded individual rights, this amendment dilutes the establishment clause of the first amendment and may erode seriously the religious liberty now guaranteed by the free exercise clause. This revision could well be the unsettling precedent for rewriting or changing other of our historical freedoms.

We are, because of, not in spite of, our religious freedom, a nation of diverse religious creeds. There is presently no state religion, no accepted religion. No one religion is preferred over any other. The protection of the first amendment has remained to this day adequate. But tinkering may beget more tinkering. What the Government can protect, it can also take away. If the Government can intrude in what until now has been a deeply personal experience, it may well decide to shape it, force it, perhaps to limit it. To attempt to answer the unanswerable and insoluble questions, which could turn a mere diversity of religions into a division of religions. The debate now raging over this proposed constitutional amendment and the division among religious groups and leaders suggests at least the massive problem that will arise over any proposal concerning the proper relationship of church and state.

Rather than provide any kind of solution to the problem which the proponents of this amendment raise, in my view only larger questions are left.

Religious authorities cannot agree on nondenominational prayer so there is little reason to believe that State, local, or school board officials could do so.

The word "voluntary" is not included in the amendment, so it is possible that the amendment will require participation in school prayer.

The amendment is just not well drafted. Disagreements are sure to arise as to what "nondenominational" means—this will spawn and increase the litigation.

The Wylie resolution purports to authorize nondenominational prayer in public schools. Assuming such a prayer could be composed, which is doubtful, and disregarding the question of who composed it, the word "nondenominational" is by its very nature antithetical to religion. Religion is by nature intensely personal and denominational. A nondenominational prayer could only serve to reduce religion to its least common denominator, to neutralize it, and finally to create what might be called nonsectarian public school religion. I do not believe that even the proponents of the Wylie amendment wish such a result.

This legislation would allow some groups or individuals to force their religious beliefs on others and this, I feel, is un-American and frightening. Our forefathers acted wisely when they wrote the Constitution to protect the religious freedom of all people.

Religious freedom to be effective must be unfettered, separated from the state. It must carry with it a complete voluntariness, a complete freedom of choice. Freedom to worship as the individual chooses, when the individual chooses, whom the individual chooses, and just as importantly, if the individual chooses.

Thomas Jefferson equated freedom of religion with his principle of freedom of the mind. His opposition to tyranny in all its forms was repeatedly voiced. In writing his Virginia Statute of Religious Freedom he said:

> Almighty God hath created the mind free . . . No man shall be compelled to frequent or support any religious worship or ministry or shall otherwise suffer on account of his religious opinions or benefits, but all men shall be free to profess and by argument to maintain, their opinion in matters of religion. I know but one code of morality for men whether acting singly or collectively.

To this I say, Amen.

Mr. BROYHILL of North Carolina. Mr. Speaker, I support the proposed constitutional amendment to provide for voluntary, nondenominational prayer in public schools and I have advocated its passage for the 9 years I have served in the House of Representatives.

This amendment has recently been subject to a great deal of criticism from national religious leaders, among others. However, several polls have shown that the rank and file members of these religious groups strongly support the prayer amendment and oppose the views expressed for their organizations.

Many opponents of the amendment contend that the Supreme Court decisions do not prohibit voluntary prayer in public schools and that this amendment would work against this practice rather than clarify the issue. However, in looking at the practical effect of the Supreme Court rulings, we can see that it has effectively ended all religious observances in the public school systems.

In discussing this issue, many people have said that we should not tamper with the Bill of Rights by passing this amendment. In the more than 180 years since the Bill of Rights was written, it is only very recently that the first amendment has been interpreted as banning all voluntary participation in prayer in public schools.

I feel that this amendment would work to clarify the constitutional intent of religious freedom in this country—the freedom to participate as well as not to participate in school prayer.

Mr. DENNIS. Mr. Speaker, the vote on the so-called Wylie or "school prayer amendment" presents a difficult problem, so far as I am concerned, because I dislike unnecessarily amending the Constitution—and, particularly, tampering

with the Bill of Rights—on the one hand; and on the other hand I object to what seem to me to have been overrefined and unduly doctrinaire interpretations of the first amendment on the part of the Supreme Court, which have operated to needlessly frustrate and deny the heartfelt sentiments and aspirations of a large majority of our people. These aspirations, in my judgment, are entirely within the mainstream of our American practices and traditions, and the Supreme Court, by a few of its latter day decisions, has artificially and unnecessarily created the problem which we face today, and which, with a little more practical approach on the part of the Court, need never have arisen.

Said Mr. Justice Douglas in a well-known passage in the opinion of the Court in *Zorach* v. *Clawson*, 343 U.S. 306 at 313 (1951):

> We are a religious people whose institutions presuppose a Supreme Being.

He stated:

> The first amendment does not say that in every and all respects there shall be a separation of Church and State, 343 U.S. at 312. When the State encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs it follows the best of our traditions, for it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religions over those who do believe . . . But we find no Constitutional requirement which makes it necessary for government to be hostile to religion, 343 U.S. at 314.

Mr. Justice Jackson, in his concurring opinion in *McCollum* v. *Board of Education*, 333 U.S. 203 at 232, et seq., after pointing out that the "released time" plan which was at issue in that case involved neither compulsion of the person nor the taking of property for religious purposes, and that the Court was, in effect, being asked "to tell the local Board of Education what it must do," observed that "nearly everything in our culture worth transmitting * * * is saturated with religious influences," and he warned against allowing "zeal for our own ideas of what is good in public instruction to induce us to accept the role of a superboard of education for every school district in the Nation," 333 U.S. at 237.

James Madison is known as the father of the Constitution, and, as a Member of the House of Representatives in the First Congress, he introduced the Bill of Rights, which included the original draft of what is now the first amendment. This first draft read as follows:

> The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

Later in the legislative process the proposed amendment was changed to read as follows:

> No religion shall be established by law, nor shall the equal rights of conscience be infringed.

And Madison, in debate, stated that the meaning of the amendment was that:

> Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship in any manner contrary to their conscience.

The foregoing comes to us from the author of the first amendment, and I submit that it is difficult and strained indeed to draw, either from the words of these original proposals, or from Mr. Madison's explanation, anything which suggests that there cannot be a voluntary participation in prayer as part of the program in a public school. On the contrary he condemns the establishment of a national religion, the abridgement of civil rights on account of religious belief, and the compelling of worship contrary to conscience. On this last heading—the only one, it would seem—which might even conceivably approach our problem—the words of Mr. Justice Jackson in *McCollum* v. *Board of Education*, 333 U.S. at 233, are apt and applicable:

> It may be doubted whether the Constitution which, of course, protects the right to dissent, can be construed also to protect one from the embarrassment which always attends nonconformity.

Thomas Jefferson was, as he stated with justifiable pride in the inscription on his tombstone, "Author of the American Declaration of Independence; of the Virginia Statute for religious freedom; and founder of the University of Virginia", yet Mr. Justice Reed, in his dissenting opinion in the McCollum case, points out that Jefferson himself suggested and approved a system whereby religious schools might be established "on the confines of" or "within, or adjacent to, the precincts of the University" at which—according to regulations adopted—"the Students of the university will be free and expected to attend religious worship at the establishment of their respective sects." Noting Jefferson's often quoted phrase regarding "a wall of separation between Church and State", and contrasting it with this practical approach to the relations of religion and education, Justice Reed remarked that "A rule of law should not be drawn from a figure of speech", 333 U.S. at 245–247.

As has been pointed out repeatedly in the various opinions in the several school prayer cases the intimate, accommodating, and cooperative relationship between government and religion, in traditional American practice, in many phases of American life, are familiar to us all, and are, in truth, legion. Among these may be mentioned prayers by House and Senate Chaplains at the opening of congressional sessions; Chaplains—Protestant, Catholic, and Jewish—in the Armed Forces; the phrase "under God" in the Pledge of Allegiance; "in God we trust" on our coinage; compulsory chapel attendance at West Point and Annapolis; and the words of the Court Crier, ". . . God save the United States, and this Honorable Court", which are prescribed at the opening of each session of the Supreme Court. Mr. Justice Douglas, at the beginning of his concurring opinion in *Engel* v. *Vitale*, 370 U.S. 421 (1962, appends, as a footnote, an impressive list of instances in which, as he puts it, "our System at the Federal and State levels is presently honeycombed with such financing"—that is, government financing of religion or of religious exercise. It was, no doubt, considerations such as these which led Mr. Justice Douglas to admit in this same opinion that:

> I cannot say that to authorize this prayer is to establish a religion in the strictly historic meaning of those words. A religion is not established in the usual sense merely by letting those who chose to do so say the prayer that the public school teacher leads.

And which led Mr. Justice Reed, dissenting McCollum, 333 U.S. at 256, to say:

> This is an instance where, for me, the history of past practices is determinative of the meaning of a constitutional clause.

Considerations of this sort, presumably, led Mr. Justice Stewart, dissenting in Engel against Vitale, to say that "the Court has misapplied a great constitutional principle," and that to deny the New York schoolchildren the right to join in reciting prayer "is to deny them the opportunity of sharing in the spiritual heritage of our Nation."

Mr. Justice Stewart points out in his dissenting opinion in School District of Abington Township, Pa. against Schempp, 374 U.S. 203 (1962), that historically the establishment clause was probably primarily an attempt to insure that Congress not only could not establish a national church, but also would be unable to interfere with established State churches which were then existing; and he touches on the fact, which is noted also by Prof. Paul G. Kauper of the law school of the University of Michigan, in his book, "Religion and the Constitution," that it is not altogether clear by what rationale the first amendment's "establishment clause"—as distinct from the "free exercise clause"—was ever, by way of the 14th amendment, applied to the governments of the several States. On this last point Prof. Kauper observes, at p. 55 of his book, that:

> It was easily understandable that the religious liberty secured by the free exercise clause would be regarded as a fundamental right protected by the Fourteenth Amendment. But . . . it still remains for the court to demonstrate in what respect a person is deprived of life, liberty, or property without due process of law because of the violation of the establishment limitation.

Mr. Justice Stewart points out further, in this opinion, that the "establishment clause," as interpreted by the majority of the Court, may well conflict with "a substantial free exercise claim on the part of those who affirmatively desire to have their children's school day open with the reading of passages from the Bible." In this connection Mr. Justice Stewart observed that:

> A compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secu-

larism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

Despite all the foregoing, the majority of the Court in the Engel and Schempp decisions—as is shown, perhaps, most clearly in Mr. Justice Brennan's concuring opinion in Schempp—appears to take the position that the views of Madison and Jefferson as to the meaning of the establishment clause of the first amendment, the evils to which the Founding Fathers intended that amendment to be addressed, and the traditional and customary practices of Americans in this field, are all largely irrelevant to the meaning and application of the amendment today, which meaning is to be determined, rather, by the ideas which, to the members of the Court majority, appear to be currently socially desirable.

Thus, Mr. Justice Brennan, speaking of Jefferson and Madison, says:

I doubt that their view, even if perfectly clear one way or the other, would supply a dispositive answer to the question presented by these cases.

He says, further, speaking of the framers of the Constitution:

I have no doubt that, in their preoccupation with the imminent question of established churches, they gave no distinct consideration to the particular question whether the clause also forbade devotional exercises in public institutions.

And then, citing the profound social and religious changes since their day, he says:

Practices which may have been objectionable to no one in the time of Jefferson and Madison may today be *highly offensive to many persons.*

And that—

Whatever Jefferson and Madison would have thought of Bible reading or the recital of the Lord's Prayer in what few public schools existed in their day, our use of the history of their time must limit itself to broad purposes.

Mr. Justice Brennan seems to be saying, or very close to saying, that if a practice—such as prayers or Bible reading in the schools—is objectionable or offensive to him, and to others, today, this, ipso facto, makes the practice unconstitutional, regardless of the original meaning, purpose, or intent of those who originally drew the constitutional provision.

This, it seems to me, is the basic defect of such decisions as Engel against Vitale and Abington School District against Schempp; and it is small wonder that Professor Kauper observes, with professional restraint, at page 91 of Religion and the Constitution, that:

It requires a very broad interpretation of the establishment clause to say that these public school exercises amount to an establishment of religion.

and further, at page 57:

One can hardly avoid the conclusion that the Supreme Court is using the due process clause as a convenient tool to impose upon the state a conception of national policy which it regards as peculiarly appropriate to present conditions.

Dire predictions are made if this amendment is adopted. It is said that this is the first weakening of the Bill of Rights, that it will end the historic separation of church and state, that it will lead to religious strife and divisiveness.

I believe that these fears are exaggerated. It must be remembered that this amendment does nothing more than provide that nothing contained in the Constitution "shall abridge the right of persons lawfully assembled in any public building . . . to participate in nondenominational prayer." Thus, while it would presumably make permissible the practices condemned in Engel and in Schempp, it very clearly does nothing at all to legalize the establishment of any sort of a national religion, to create any religious test for the exercise of the franchise or the holding of public office, to infringe the full and equal rights of conscience, or to compel men to worship in any manner contrary to their conscience—the evils toward which, as we have seen, the first amendment was basically aimed. I, myself, would prefer that the amendment contain the word "voluntary", instead of or as well as "nondenominational", so that it would read "the right to participate in voluntary and nondenominational prayer". Unfortunately, under the discharge procedure no amendment on the floor is possible—except under unusual parliamentary procedure—and therefore this improvement must probably be sought, if the amendment is passed in the House, when it reaches the other body. I am of the opinion, however, in the light of the uniform decisions of the Court and the history behind the first amendment, that any reasonable interpretation of the Wylie amendment, even as it stands, would necessarily hold that the prayers legalized by its provisions would have to be voluntary, and that nothing in the amendment could be construed as authorizing any sort of compulsion, a thing which would, indeed, run contrary to the true and basic meaning of the first amendment.

If this amendment is adopted, then, nothing will have changed except that the several States of the Union will be authorized, if they so desire, to provide for the holding of noncompulsory and nondenominational prayers as a part of the program of their public schools. This does not shock me, it is desired by at least 80 percent of the people by every popular poll, including my own in the 10th District of Indiana, and it comports with my understanding of the true and original purpose and intent of the first amendment—as noted above—and as American practice has understood and interpreted it from the line of James Madison, and before, until the modern age of Engel against Vitale. Since the issue has arisen and is here to be decided, I am constrained to agree with Mr. Justice Reed that this background history and past practice must prevail over the legalistic refinements and the doctrinaire approach of modern day "liberal" judicial thought, which would here, as in other areas, bend the meaning of the Constitution to its own view of modern social good.

Therefore, Mr. Speaker, I vote "aye" on the Wylie amendment.

Mr. KASTENMEIER. Mr. Speaker, the House will soon be called upon to vote on the proposed constitutional amendment, House Joint Resolution 191, to authorize prayer in schools and other public buildings, thus amending the scope of the provision of the first amendment to the U.S. Constitution which declares that—

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

I urge my colleagues to oppose House Joint Resolution 191, for were the Constitution amended, as recommended, the proponents of House Joint Resolution 191 would gain the very dubious distinction of having helped bring about for the very first time a reduction of the protection of the Bill of Rights as authoritatively interpreted under our system.

As a member of the House Judiciary Committee, I participated in the extensive hearings the Judiciary Committee held on the school prayer issue in 1964. These deliberations followed the 1962 U.S. Supreme Court decision in Engel against Vitale and the 1963 High Court decisions in Abington Township, Pa., against Schempp and Murray against Curlett, in which school religious programs supervised by Government were outlawed as violating the freedom of religion guaranteed by the first amendment. It was generally thought that the committee would report out a constitutional amendment on school prayer. But, many of the committee members who were disposed at the outset of the 1964 hearings to support some form of a school prayer amendment became aware of the problems involved in such a proposal. For example, it was impossible to determine who should prescribe what prayers and Scriptures were to be recited and read. We also heard from a number of respected and widely represented members of the clergy who strongly opposed the prayer amendment on the basis of separation of church and state. Upon mature reflection, the committee reached the decision that such a constitutional amendment could not be written without doing violence to the first amendment. Committee members who early supported the school prayer concept joined in this consensus. Now, this issue has been revived.

In my own State of Wisconsin, the school prayer question has not been raised in over 80 years. Article I, section 18 of the 1848 Wisconsin constitution states that—

The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

In 1890, this provision of the Wisconsin constitution was tested in the Wisconsin State Supreme Court in a suit brought by Catholic parents who objected to having their children being subjected to

Protestant prayers. The Wisconsin Supreme Court, in Weiss against District Board, reasserted the State constitutional ban on devotional Bible reading in public schools. This section of Wisconsin's constitution was further reaffirmed by the 1962 and 1963 U.S. Supreme Court decisions. I do not know what the practice was in Ohio where the drive for the school prayer amendment, led by an Akron housewife and our colleague from that State (Mr. WYLIE) originated. For Wisconsin, however, the amending of the Constitution to permit school prayer would have an unsettling effect.

Mr. Speaker, this Nation has stood for the principle that religion is a matter entirely between the believer and God, to be sustained by such voluntary associations and religious organizations as the citizens may choose, but not to be either promoted or opposed in any way by the agencies of government. The proposed amendment would introduce an utterly impossible chaotic situation, unless a State agency were authorized to determine what prayers and Scriptures were to be recited and read. The State would then become the official agency for a preferred form of religion. History, however, is replete with evidences that whenever the State has control in any degree over religious life, the way is opened for the denial of religious freedom and for the persecution of those who do not adhere to the officially approved forms of faith.

The fullest realization of true religious liberty requires that Government neither engage in nor compel religious practices, that it effect no favortism among sects, or between religion and nonreligion. The attitude of the State toward religion must be one of neutrality.

The late Justice Hugo Black, in delivering the Court's decision in the 1962 Engel case, wrote:

> The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office. Under that Amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it state or federal, is without power to prescribe by law any particular form of prayer. . . . It is neither sacreligious not antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers. . . .

Mr. Speaker, for the sake of our precious heritage of religious liberty and for preserving intact that priceless bulwark of freedom for all Americans, the first amendment, I, therefore, urge my colleagues to vote against the proposed constitutional amendment.

Mr. ROBINSON of Virginia. Mr. Speaker, in reading and considering the substantial correspondence which has come to my office in recent months in regard to the resolution now before us, I have been struck by the fact that, while the governing bodies of various churches have taken positions against the prayer amendment, the rank-and-file members of most churches seem to be strongly in favor of permitting voluntary prayer to be part of the school day.

That we have the resolution under debate today, Mr. Speaker, can be attributed to the grounds well of public indignation at the suggestion, implicit in the Supreme Court decision, that there is something improper in the overt recognition of a supreme being during school hours, or that the Founding Fathers intended that schools be conducted in a spiritually sterile atmosphere.

I have in mind the many spontaneous efforts which sprang up around the Nation to rally support for an appropriate clarifying amendment—a measure which should not have been necessary under any reasonable interpretation of the intent of the framers of the Bill of Rights, as reflected by the history of the time.

Helpful background information was distributed, for example, by the Citizens for Public Prayer and other volunteer groups.

In the small community of Scottsville, Va., in the Seventh Virginia Congressional District, which I have the honor to represent, Mr. A. Warren Walton undertook a one-man letter-writing campaign. He wrote more than 1,000 letters to newspapers in the 50 States, urging citizens to make their support of the prayer amendment known to Members of Congress.

Last week, Mr. Walton took 3 days off from his employment to come to Washington to join other citizens in visiting offices of Members of this House to urge support for the resolution.

Mr. Walton is typical, I believe, of the millions of citizens who see nothing wrong—and a great deal right—in the practice of opening a school day with a brief recognition of a Supreme Being, assuming that no student is required to participate, and no special status is given to the liturgy, tenets or clergy of a particular denomination.

He made this comment:

> I have children in the public schools, and while I don't believe in forcing everyone to pray, I do believe children should be able to start the school day with a prayer if they want to.

Except through his statements as set down in writing, we cannot explore the mind of James Madison of Virginia, one of the authors of the first amendment, but I believe an examination of his recorded views make plain that he would not have been in disagreement with Mr. Walton.

When Mr. Madison introduced in this House the original proposal leading to the religious freedom provision of the first amendment, it read as follows:

> The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed. (Annals of Congress, I, 434).

The Annals report (Ibid., 730):

> Mr. Madison said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience.

I agree with Mr. Madison; I agree with the first amendment as finally enacted and ratified—and I agree with Mr. Walton of Scottsville, Va.

I do not believe the resolution now before us should have been necessary, but the Supreme Court has made it necessary to reaffirm the otherwise obvious intent of the Founding Fathers.

Those who have expressed to me in correspondence their apprehension about the proposed amendment occasionally have challenged me to identify, or put forward, "a nondenominational prayer."

As one of the cosponsors of the amendment resolution, I certainly do not support the idea of an officially sanctioned prayer.

The intent of the amendment, in my view—and I believe the other sponsors of the measure concur—is not to require the promulgation of an "official" prayer for use in public schools or other public buildings.

The intent is to the contrary—and, I believe, it is consistent with the original intent of Mr. Madison—to preclude the sanction of a particular mode of worship.

"Nondenominational prayer"—as distinguished from "a nondenominational prayer"—can be ecumenical in character.

The recognition of a Supreme Being has been expressed with depth of feeling and great beauty in the prayers of many faiths and in their Scriptures.

Surely, as in the prayers which open the deliberations of this House, and which are offered, on occasion by guest chaplains of many persuasions, the dominance of a particular creed can be avoided without resort to secular prayer draftsmen.

Mr. Speaker, I support the resolution.

Mr. HANLEY. Mr. Speaker, several months ago, I signed a petition discharging the House Judiciary Committee from further consideration of House Joint Resolution 191, the so-called prayer amendment. I did so because I felt the House had a moral obligation to meet this issue headon.

When I came into the Chamber today, I was fully prepared to vote against the resolution. I was deeply concerned over two elementary aspects of the resolution. My first misgiving was over the fact that the word "voluntary" did not appear anywhere in the language of the resolution and that this would have led to coercion of students to participate in a State-authored, State-directed prayer or religious observation. My second concern was over the fact that the resolution provided for nondenominational prayer. I, for one, do not know what a nondenominational prayer is and I doubt seriously whether or not anyone else does.

I had prepared a very strong speech in opposition to the resolution's passage, and I was ready to back up that speech with my vote.

But then, Mr. Speaker, the House adopted the perfecting language of the amendment offered by the distinguished gentleman from Alabama (Mr. BUCHANAN) and the entire issue was substantively changed.

The Buchanan amendment strikes the word "nondenominational" and inserts instead "voluntary prayer or meditation."

I am convinced now, Mr. Speaker, that the safeguards against Government encroachment into the arena of religious activity which were written into the first amendment, are intact, and that the Government is not empowered under this resolution to go into the religion business.

Mr. MICHEL. Mr. Speaker, I was one of those signing the discharge petition to bring this very simple prayer amendment to the Constitution out on the floor of the House for a vote. I fully recognize that it is a controversial issue and could be debated for an extended period of time.

I am going to vote for the resolution, knowing that it will require a two-thirds vote in both bodies of the Congress and will have to be ratified by three-fourths of the States before it can even become operative, but I do believe the people ought to be given an opportunity to speak on the subject through their State legislatures and conceivably by public referendum in the various States and localities.

This whole subject matter was brought to the fore when the U.S. Supreme Court in the case of Engel against Vitale said that it was unconstitutional for a State or local community to prescribe prayers in public schools.

First, may I say that I agree wholeheartedly. The Court was right in that decision, for who are we as public officials to prescribe any kind of prayer for children in our public schools. I do think, however, that in more recent decisions of several lower courts on the subject of prayers in public places, their reasoning has been absolutely absurd and borders on the ridiculous. As an example of this, the case has been cited in New Jersey recently in which the students of the Netcong High School wanted to meet for 5 minutes prior to the formal opening of school for a purely voluntary meeting, in which a student volunteer reader assigned by the principal on a first-come, first-serve basis, would read the prayer said the day before by the Chaplain of the U.S. House of Representatives. The school board okayed this procedure, but it was later found by the courts to be unconstitutional.

Whenever I have been asked as to whether or not it is permissible to have any kind of prayer in a public schoolroom or reading of Biblical passages, I have always advised the teachers to go ahead and do whatever they liked so long as whatever was done was not mandatory and was purely voluntary on the part of the children. In my opinion, the greatest textbook of all time is still the Bible. I also happen to feel, however, that the primary responsibility for religious education or instruction resides with the parents or guardians of our youngsters, and their respective places of worship.

I should say further that I personally am in a distinct minority in the Congress so far as being identified religiously. I am the only Member identified with the Apostolic Christian Church, a very fundamentalist denomination. At one time there was a Member identified as a Hindu, but he has since gone on to his reward, so I know what it is like to be in the minority.

Frankly, I do not consider this prayer amendment as critical an issue as some of the more emotional people expressing themselves on the subject would have us believe. And I certainly would be the last to have the State infringe in any way upon my religious beliefs. I will be frank to say that I do feel as a country we have been blessed since the days of the founding of the Republic in no small measure because from our very beginning we have acknowledged a Supreme Being, and have from the very beginning and still to this day begin our deliberations in the Congress and in many public places with a prayer.

Just a few days ago we all received a letter signed by a number of our colleagues in both the House and Senate inviting us to the next national prayer breakfast at which the President and Mrs. Nixon will be honored guests. Members of the Cabinet and Supreme Court are included and usually attend. The invitation says:

> The purpose of this event is to bring the nation's official family together to ask God's guidance.

Now, is it not a little inconsistent to acknowledge the worth and desirability of prayer in such formal fashion but then strike down as unconstitutional voluntary prayers of a very informal nondescript type that may be said in a building supported in whole or in part by public funds.

While the lawyers and religious leaders may debate endlessly what nondenominational prayers really are, I do not think that choice of adjective should serve as a bar to the enactment of the resolution, although I would much prefer the language of the publicized Dirksen amendment authored by the late beloved Senator and minority leader. He was the original champion of this amendment.

Mr. Speaker, some of us may or may not have been taught how to pray. Our supplications differ each according to his own conscience, beliefs and teachings, but that is not important. What is important here is not the content or form of what prayers might be said voluntarily in public buildings including our public schools but whether one is required or coerced involuntarily to participate or conform to something prescribed by the State.

There is a marked difference and all we seek to do is preserve the voluntary nature of prayer consistent with all the safeguards of the first amendment to the Constitution.

Mrs. HANSEN of Washington. Mr. Speaker, I would like to take this opportunity to join many of my distinguished colleagues who have expressed the gravest of doubts regarding the prayer amendment soon to be considered by the House of Representatives. At the outset I should mention that this is only one of many occasions I have felt the responsibility to express these doubts. Throughout my years as a State legislator and as a Member of the U.S. Congress, well-intentioned, sincerely religious people have forced the emergence of this issue. In 1963 and 1964 the Supreme Court gave legal emphasis to my argument. However, there is again increased pressure on the U.S. Congress to reverse the decisions of Engel against Vitale and Abington School District against Schemp and to assume the responsibility for interpreting the basic provisions of that document upon which is based our most delicate social and political organization.

It has become increasingly evident to me that the overwhelming majority of concerned Americans, regardless of their religious preferences, have come to the realization that a resolution such as House Joint Resolution 191, no matter how pure the motivation which led to its introduction and the discharge of the House Judiciary Committee, constitutes a real danger to the integrity of the Constitution and to the basic religious freedom it provides us.

The complete separation of religious activities and civic duties has been elementary to the concept of freedom in our democracy. The strength of this conviction is apparent as early as the introduction of Thomas Jefferson's bill for establishing religious freedom, passed by the Virginia Assembly.

> We, the General Assembly, do enact that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or beliefs: but that all men shall be free to profess, and by argument to maintain, their opinions in the matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civic capacities.

This was codified into the first amendment of our Constitution as:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Clearly, the essence of the no-establishment clause was that there would be no "official" civic religion to which all loyal citizens must pay at least lipservice. Our Founding Fathers were well aware that governmental involvement in religion was, even with good intentions, an insidious step to religious controversy, religious divisiveness, and ultimately, religious repression.

Mr. Speaker, Members of the House, I believe the Supreme Court has envisioned very clearly the ramifications of the "nondenominational prayer" amendment. They did not put God out of our public institutions. They did not express hostility toward His Worship. They did not advocate an atheistic society in which to raise our children. They simply stated that:

> State composed and governmentally required prayers are a violation of the Constitution.

And:

> In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government.

The Supreme Court has never prohibited truly voluntary prayer. To the contrary, the Supreme Court has on

many occasions taken note of the religious heritage of this country, and it has always sought to preserve that heritage.

Our Founding Fathers, from their own bitter experience, and our own Supreme Court, aware of the politics that resulted in that bitterness, realized with great clarity that construction of the first amendment to provide for "nondenominational prayer" would require the authorship of an agent of the State and require recitation in our public schools, hospitals, homes for the aged, and other public buildings. In insuring that all participants pray in unison, we would have to allow a governmental agent to impose his own personal determination of what constitutes a "proper" prayer on all of those who are forced to recite it. Thus, the very rights which this amendment is to enhance are, in fact, restricted.

Before I support this resolution I must be shown a prayer which will recite the strong religious convictions of the Catholic, the Jew, the Protestant, the Buddhist, the Moslem, and every sincere religious sect, as well as the atheists. There is no such prayer. If I am wrong, then I give this august body the entire month of December to compose and unanimously adopt such a prayer. Then let us amend the Constitution. Then let us vote on having the child who wishes to attend public school, the elderly person trapped in a nursing home, the crippled in a public hospital, to temporarily lay aside the freedom they now enjoy to pray to their own God, in their own manner, and impose upon them some watered-down version of worship, lacking in religious conviction and possibly adverse to their personal beliefs.

It is a fact that virtually all religious groups, including the National Council of Churches, the U.S. Catholic Conference, the American Baptist Convention, the Southern Baptist Convention, and the Joint Advisory Committee of the Synagogue Council of America and the National Jewish Community Relations Advisory Council, oppose the amendment. They oppose it because they realized that the Government's choice of a particular form and substance of "acceptable prayer completely undermines the establishment clause of the first amendment and jeopardizes each individual's ability to worship in his own way. They do not wish to risk religious strife and to subject children of minority religions to the inevitable coercion and social stigma for the dubious benefits of prayer in school. They do not believe that such prayer is a substitute for religion in the homes and churches. They do not wish to chance the erosion of our Constitution for an ill-fated attempt to instill religious attitudes in children who do not receive them at home, by the enforcement of a bland "nondenominational" prayer.

The Washington State Constitution in article I, section II, states:

> Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment.

The article then goes on to state that:

> No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror, in consequence of his opinion on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.

It would seem to me that in this declaration there is the same guarantee for a schoolchild as there is for a public official.

Again, article IX, section IV of our State constitution says:

> All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

Earlier, the preamble to article IX, section I stated:

> It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.

Therefore, it seems to me that any abridgement of article I of the Bill of Rights at the same time nullifies or abrogates the Washington State constitution.

I shall not support the prayer amendment. I shall not support it because I consider it contrary to my oath of office wherein I swore to uphold the Constitution of the United States.

The erosion of the Bill of Rights to me could become one of the most disastrous actions of America. A little erosion here and a little erosion there will eliminate democracy and freedom as we know it. Too many countries have gone down this road. Let us keep America strong and free under her Constitution.

I have no apologies for my stand on behalf of my Constitution to which I took allegiance. Many Americans have died to preserve our Constitution. I can at least speak in its defense.

Mr. BADILLO. Mr. Speaker, very shortly Members of this body will be called upon to vote on House Joint Resolution 191, the so-called prayer amendment. This legislation would amend the Constitution to permit the recitation, voluntarily, of nondenominational prayer in our public schools.

At first glance this proposal appears to be deceptively uncontroversial. Who wants to go on record as opposing prayer, and what politician or other public figure wants to be remembered for opposing the voluntary recitation of it? Surely, a great deal of good and no harm must come from youngsters' starting the day by acknowledging the supremacy of God and returning thanks to Him for the many blessings they have received.

Unfortunately, the issue is not as simple as it appears. Presently the first amendment guarantees the right of each individual to worship God in the manner of his choosing and safeguards his right to determine what part the exercise of religion will have in his life and the life of his children. The amendment we are considering would encroach on these rights and, by doing so, would engender divisiveness in our Nation.

The prayer sanctioned by the amendment is described as nondenominational. The problem is, who will determine whether a particular prayer does or does not conform to this requirement. Will the evaluation be left up to the school boards or will it be delegated to the attorneys general of the States? Is there a reasonable likelihood that either of these alternatives, or any other elected or appointed bodies can satisfy parents from widely differing religious backgrounds? I think not. The chances are overwhelming that individuals confronted with the text of the prayers will detect in it either a favoring or slighting of their religious beliefs. Their opinions will be known to their children who in turn will consider their classmates with favor or dislike, depending on their participation in and enthusiasm for this "voluntary" devotion.

Mr. Speaker, the Founding Fathers, having suffered from religious persecution and having come to this land in search of a sanctuary of freedom of belief, established the safeguard of the first amendment to assure that the intolerance and bigotry which blighted their lives will not threaten the freedom of their descendants. Our nation has grown and prospered under the safeguards of the first amendment. I am certain that no Member of this body wants to retard that growth or engender national divisiveness. I ask my colleagues, therefore, to think long and hard before voting in favor of this amendment.

Mr. CLANCY. Mr. Speaker, I rise in support of this resolution for a constitutional amendment.

This amendment would not join church and state where they are now separate. This would do no more in the schools than we now do in the House of Representatives. We open each day with a prayer in the Capitol. We should not deny that privilege, or that right, to our children.

This amendment does not require children to say a prayer. It does not force teachers to impose prayers on students. Shuch prayers as would be said would be voluntary and would not indoctrinate our youth.

I urge my colleagues to vote for this resolution because we stamp our coins with the words, "In God We Trust," and we have inserted the words, ". . . under God," into the Allegiance to the Flag.

Let me remind the House that the first amendment starts off, "Congress shall make no law respecting an establishment of religion."

But it immediately adds six words which many people overlook, "or prohibiting the free exercise thereof."

For too long, our children have been denied the free exercise thereof in public schools. This amendment is needed to reinforce the wisdom of our forefathers as set forth nearly 200 years ago in the U.S. Constitution.

Mr. LANDGREBE. Mr. Speaker, there are two points concerning the Wylie amendment on school prayer which I believe should be made as we consider the vote here today.

First, we need to look beyond legalisms and technicalities and examine the entire fabric of our Nation's traditions. This is and always has been a nation under God. The document that led to the very establishment of this Nation, the Declaration of Independence, clearly shows a divine origin for our country's independence:

They are endowed by their Creator with certain inalienable rights.

Every session of this House and the other body begins with a prayer, in which we acknowledge our dependence upon the Supreme Being. Those who ask the fatuous question, "What is non-denominational prayer?" need look no further than the first page of any copy of the RECORD.

Our coins contain the motto: "In God We Trust." Our pledge of allegiance includes the phrase: "Under God." Practically our whole panoply of recognized patriotic songs include the idea of our subservience to God.

Legalisms notwithstanding, Mr. Speaker, this is clearly a nation under God, and it is folly to construe our Constitution otherwise.

The point has been made that the Supreme Court in 1963 never really outlawed prayer in public schools. I hope this is true. But the fact remains that the court ruling, rightly or wrongly, has been consistently applied to mean that school prayer is forbidden. Rightly or wrongly, public school prayer has been nearly nonexistent for the past 8 years.

What has happened in those 8 years? Crime, especially juvenile crime, has risen at a most alarming rate. Eight years ago, drug abuse in schools was almost unheard of; today it is an epidemic. Our Nation's entire moral fabric has been rotting away—as evidenced by the hardcore pornographic filth that now flourishes on our newsstands and in our theaters. This may be coincidence, but I don't believe so.

History is full of examples of how civilizations have perished as the people turned away from their established moral values. The example is repeated again and again in the Old Testament of the Bible. As long as the people remained close to God, the Nation prospered. When they fell away, they were conquered by the heathen. Is this going to be the ultimate fate of the greatest Nation in world history? Unless we quickly return to a dependence upon the Almighty, no matter by what name we choose to call Him, the historic precedent is clear.

Let us, the Members of the U.S. House of Representatives, at this moment, speak loud and clear. Let us tell the entire world that we believe that America is yet a nation under God, and in that great and wonderful God we still place our trust.

Following our affirmative action on this constitutional amendment the final decision will rest with the legislatures of the several States. I thank you.

Mr. FUQUA. Mr. Speaker, the matter which we discuss today is not taken lightly. I support the passage of this constitutional amendment to protect the basic rights of the American people and not to take away the rights of any man.

Today we have adopted an amendment which rewords this amendment to say that voluntary prayer in public buildings shall be permitted under the Constitution of the United States. This is much preferable to the word nondenominational and had my support.

However, the basic question here is whether the American people will be allowed to express devotion to Deity in public buildings.

The history of this Nation is that we are most tolerant of our fellow man and his or her basic beliefs. Freedom of religion is a basic and fundamental right and I will fight against the establishment of a State religion.

What we have seen happen as a result of the Court decision is a feeling that all prayer is banned.

Thus, the citizen who wants to voluntarily offer a prayer is prevented from doing so. We do not propose that anyone be forced to pray in any set fashion, nor do we believe that there should be prayers written by the State.

In the Supreme Court decision it was ruled that a specific prayer written by the State was not constitutional.

There should, however, not be a prohibition against the American people saying a prayer in public buildings.

The House of Representatives opens its sessions with prayer. The Senate opens its sessions with prayer. The Supreme Court opens it sessions with prayer.

Do not we all three meet in public buildings?

In meeting in the Capitol and the Supreme Court Building, we gather in two of the three most important public buildings in our land.

Before the Court decision was rendered, there was no State religion—there was no established religion.

I am opposed to prayers being forced upon any person.

But to deny schoolchildren the right to offer voluntary prayers to Deity violates a basic and fundamental right—their freedom of religion.

The agnostic and the atheist should be tolerant of those who believe in God. In a society such as ours, we are a blending of cultures and beliefs. It is basic that we tolerate the rights of others and those who want to recite a voluntary prayer should have a right to do so.

It is not a basic and fundamental infringement of the rights of those who do not wish to participate to give to those who want this privilege to allow such simple observance.

Opponents of this legislation have blown their arguments far out of proportion. Every effort has been made by many of us to see that there is no infringement of basic liberties.

There are those in the Congress who disagree with me and there are many Americans who take an opposite view. I respect the rights of those who disagree.

My sincere conviction is that Americans are being denied a right which should be theirs and I strongly urge the adoption of this proposal by the House of Representatives.

Mr. EDWARDS of California. Mr. Speaker, as a member of the Committee on the Judiciary, I remember vividly the lengthy hearings, running over a period of 3 months in 1964, on a wide variety of resolutions proposed by Members of the House which were addressed to the Supreme Court's school prayer decisions. The committee sat en banc in order that all of the Members would have the benefit of the testimony and the thinking of religious leaders, constitutional lawyers, educators, and interested citizens and groups.

After studying the many proposals before it, the committee was unable to find language which it could recommend to the House.

Shortly after the committee hearings, which were widely reported in the press, former President Eisenhower reached a similar conclusion. On July 4, 1964, the New York Times quoted his views as follows:

General Eisenhower said he was opposed to the constitutional amendment on prayer in the public schools. He said religion should be taught in the schools, not as creed, but to show how great religions had influenced the course of civilization.

"But when you talk about prayer," he said, "this is in the nature of a personal communication and its use in public schools violates the First Amendment to the Constitution.

Far from being swept under the rug, therefore, as some contend, the Committee on the Judiciary has given careful and intensive consideration to every conceivable point of view on the problem of school prayers. When we undertake to amend the Bill of Rights we are embarking on a very grave venture indeed, fraught with unforeseen consequences, for generations to come. Any language the Congress might choose to recommend to the States, if ratified, will be part of our fundamental law, and will be difficult indeed to change if its consequences prove untoward.

I find the language of House Joint Resolution 191 difficult to understand. Although its sponsors term it a "school prayer" amendment, nowhere does it refer to public schools as did Senator Dirksen's amendment which was rejected by the Senate in 1966.

Indeed, I cannot tell from its language whether House Joint Resolution 191 does or does not overturn the Supreme Court school prayer decisions so as to authorize state-composed prayers—struck down in the Engel case or state-required prayer—invalidated in the Schempp case.

It is curious, moreover, that House Joint Resolution 191 seems to be addressed to the free exercise clause of the first amendment rather than the establishment clause on which the Supreme Court's school prayer decisions were based.

These anomalies have been forcefully underscored by Prof. Charles L. Black, Jr., of the Yale Law School in a letter which appeared in the Washington Post November 3, 1971. As Professor Black points out:

The astounding thing about this text is that it addresses itself only by indirection, if at all, to the problem which actually interests its sponsors, and which actually concerned the Supreme Court in the cases it is designed to overrule or weaken—the problem of official prayer in the public schools. The question in the school prayer cases was

not whether people might sometimes lawfully pray in buildings supported in whole or in part by public funds. The question was whether children not so much "lawfully assembled" in public buildings as *coerced* into assembling in public buildings by the truancy laws, could lawfully be forced either to pray, or to stand silent during a prayer conducted in their coerced presence, or to be sent into the hall or in some other way marked as deviants, with all that means to a child. Of this proposed amendment as it stands, therefore, one of two things must be true. Either it does not touch the practice of school prayer at all (in which case it is a triviality, addressing itself to peripheral problems which interest no one) or it will be held to overrule the school prayer cases, without doing so in candid language that addresses itself fairly to the problem of official coercion, or shaming, operating upon children in connection with religious matters. If the first of these things is true then it is preposterous to go through the constitutional amendment process to achieve so trivial a result. If the second should turn out to be true, then a real outrage will have been committed, because a coercion of children in religious concerns, or a pressure upon them in regard to such concerns, will turn out to have been made permissible, by language which does not in any way make clear this drastic purpose.

It is a paradox indeed that a proposed amendment to the Bill of Rights which is ostensibly designed to broaden the free exercise of religion is in fact calculated to impose coerced religiosity by little children assembled by force of law under the supervision of public employees in a public building. It was just such an establishment of religion—or more accurately a public display of religiosity—which James Madison and his colleagues sought to prevent.

As Representative Daniel Carrol of Maryland remarked during the debate on the Bill of Rights during the First Congress:

> The rights of conscience are, in their nature, of peculiar delicacy and will little bear the gentlest touch of governmental hand.

True to the intent of the framers of the Bill of Rights Mr. Justice Black in the Engel case held:

> * * * it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government.

It is ironic, indeed, that with the tributes to Mr. Justice Black still reverberating throughout the Nation, that this House is now being asked to overturn one of his landmark decisions.

I implore my colleagues to vote against this well-intentioned by ill-advised proposal to tamper with the Bill of Rights.

Mr. Speaker, I ask leave to extend my remarks to include eloquent witness to the guarantee of religious liberty now embodied in the Bill of Rights by the Reverend Edward O. Miller, Rector of St. George's Episcopal Church in New York City on behalf of the American Civil Liberties Union before the Committee on the Judiciary in 1964. Reverend Miller's testimony was as follows:

NO CONSTITUTIONAL AMENDMENT TO ALLOW PRAYERS IN PUBLIC SCHOOLS

(By the Reverend Edward O. Miller)

You cannot kill God by a Supreme Court decision. Nor can I believe that, in the controversy surrounding the Supreme Court's decision of *Engel* v. *Vitale*, affecting my own State of New York, the only thing holding the spiritual fabric of our nation together is a little twenty-two-word sub-Christian prayer.

I share the opinion expressed by President Kennedy in his press conference on June 27, 1962:

"We have in this case a . . . remedy, and that is to pray ourselves, and I would think that it would be a welcome reminder to every American family that we can pray a good deal more at home and attend our churches with a good deal more fidelity, and we can make the true meaning of prayer much more important to the lives of all our children."

Are we prepared to admit that our American community and home life, as well as our church structures—all the influences that bear on the lives of our children outside our public schools and other public institutions—are so weak that we cannot depend on them to inculcate religious values, inspire prayer, and instill all that is uplifting in the scriptures? Have we come to the point in America where our churches and synagogues appear so weak that legislators have to say: If it is to be done at all, the school boards will have to do it?

As an ordained minister I submit to you that amendments permitting prayers in the public schools contain great potential harm.

First, to our American way of doing things—the brave American experiment. Our forefathers in 1791 took the risk of organizing a new government without a civic religion. This was daring: it had never been done before. There were many who thought it could not possibly succeed. Then, as now, there was widespread belief that a common religious practice was necessary to hold society together and undergird public morality.

Have we now reached a point in our nation's history where we admit that this brave American experiment has been a failure? Are we prepared, by endorsing these amendments, to give up and return to the arrangement that prevailed before? Shall we reinstate, in an amendment to our Constitution, a civic religion to which all good citizens would be expected to subscribe?

Through most of mankind's history it has been assumed that civic responsibility and religious adherence are inseparable, and that there are certain religious truths to which all honorable citizens will subscribe. Historically this monolithic cast of civic religion was broken by the Protestant Reformation, and in its place many territorial religions sprang up. The Peace of Augsburg in 1555 determined that a civic religion would be chosen by each prince for the people of his principality. *Cuius regio, eius religio* was a formula of mercy at the time, for it meant that dissidents could emigrate to a more friendly land rather than face a grimmer fate at home. This improved arrangement—*religious territorialism*—was a great advance over the single state religion of the Constantinian era which preceded it.

NO CIVIC RELIGION

Our forefathers who fashioned the Constitution took a radical step beyond religious territorialism by providing that the civic responsibility of the citizen should be entirely divorced from his religious beliefs and affiliations. This was first clearly enunciated by a legislative body when the Virginia Assembly enacted Jefferson's *Bill for Establishing Religious Freedom*, which contains this historic formula:

"We, the General Assembly, do enact that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or beliefs: but that all men shall be free to profess, and by argument to maintain, their opinions in the matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civic capacities."

This brave experiment was codified in the First Amendment to the Constitution: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ." The essence of the "no-establishment" clause was that *there would be no "official" civic religion to which all loyal citizens must pay at least lip service.* A lesser part of this provision was the guarantee that no church or ecclesiastical hierarchy would be supported by taxation, but this guarantee was subordinate to, and implementive of, the protection against religious qualifications for citizenship.

Just as primitive and pagan rites and symbols persist in higher religions for centuries, so vestiges of the establishment pattern of European Christendom persisted in America for many decades after the beginning of our noble experiment. There were theistic qualifications on the oath of office in many states. Protestant practices continued to be part of civic ceremonies and institutions, although they were repugnant to some citizens of Roman Catholic, Jewish, or other persuasions.

For more than a century, our national climate did not permit much effective protest. During the nineteenth century, Roman Catholic parents repeatedly took to court the use of the King James version of the Bible in the public schools, and as a result of some of these protests Catholic children were beaten and whipped in school, Catholic priests were tarred and feathered, and churches were burned and their members subjected to violence. In 1854 John Bapst, a Jesuit missionary among the Indians, was tarred and feathered and ridden out of Ellsworth, Maine, on a rail, for opposing a town regulation requiring the children to read the King James version of the Bible in school. Within the Roman Catholic Church there was perhaps no more stalwart opponent of religious exercises in public schools than Archbishop John Hughes of the Roman Catholic Archdiocese of New York. Throughout the 1840's and '50's he fought strenuously against all religious practices in the public schools of New York City.

Needless to say, when the Supreme Court declared in recent years that the hallowed vestiges of the Protestant culture-cult would have to be removed from the civic institutions that belonged equally to non-Protestants, the Protestant establishment was shocked. They interpreted the removal of their insignia of hegemony from the public schools as an insult to God—which is how we often construe a threat or slight to ourselves. Since Roman Catholics have inherited the community hegemony in many places, they reacted to the attack by non-Christians upon the community religious cult as an attack upon themselves. Cardinal Spellman was "shocked and frightened."

So it was that when the Supreme Court asserted the implications of the First Amendment—which had been present all along, seeking only the occasion to emerge into actuality—the cry arose from the threatened "establishment" of the old Protestant (and new Catholic) hegemony: Let us have done with this radicalism! Let us go back to the way things were before the Supreme Court made this strange and impious ruling! Let us go back to the civic religion, the culture-cult which binds society together—justifies the way things are—keeps the newcomer skeptic and alien in his place—and proclaims our dominance over "our" nation.

The proposed constitutional amendment would retract the last bold step forward from territorialism in religion. It would return to the time of reliance upon adherence to civic religion, only now the territory would not be the domain of the local prince but the public school district or the classroom. The prince would no longer determine the form and content of the civic religion. The new ruler of our day would be the majority, acting through its official

agents: the school board, the principal, and the public school teacher.

TWO MAJOR DANGERS

Two dangers are obvious. The first is the danger of divisive sectarianism between one religious group and another, with a strong pattern of Mormon practices provided for school districts in Utah, Roman Catholic sacramentalism in Boston and New York City, and Black Muslim rites in Harlem and South Chicago. The second danger in this ecumenical age is to have vague, thin, pointless religion-in-general everywhere—the undemanding, "nonsectarian" religion that offends no one, makes no demands, and moves no one. It will be futile for purposes of motivating conduct or determining character, as it has always been in every society where it has been tried—a recent example being pre-Nazi Germany—but it will suffice as a civic cult to which and through which all loyal citizens must daily demonstrate their allegiance as a condition of enjoying the full benefits of citizenship.

This would be a regression to Constantinianism, if not to the emperor-cult of pagan Rome, when a single attenuated religion was the universal test of civic belonging. And even worse, it reduces the American spiritual heritage from a cosmopolitan to a local culture. As Robert Bierstedt, chairman of the Department of Sociology and Anthropology at New York University, has put it:

"In local as opposed to cosmopolitan cultures everyone is religious, everyone is a Christian, and with minor but growing exceptions, everyone is Protestant. One is reminded of primitive peoples throughout the world who are unable to comprehend the concept of people unlike themselves, who use the same word for themselves that they use for all mankind. One is similarly reminded of Warren Austin, ex-Senator and ex-Ambassador to the United Nations, who quite unconsciously proved the point by remarking that the Arabs and Jews should settle their conflicts in accordance with Christian principles."

Proponents state that the purpose of the amendments is to secure "free exercise of religion"—"like we had before June 25, 1962," as Mr. Becker puts it. Yet this "free exercise" is of a peculiar kind. It is not the freedom of all children to pray and read the Scripture of their choice with others of like mind in church or home, for we have that now. It is not the freedom of each child to pray to God or read his Bible in any place and in any time of need, for we have that now. The freedom the amendments would provide is in the public school, and it is oral and collective, so that all the children who may happen to be assigned to the same class must participate together in this "free exercise," or be silent while their classmates participate, or ask to be excused from the room—to emigrate temporarily.

In order for this "free exercise" of religion to be effective, the praying of the children who find themselves together in this class by operation of the compulsory education laws, must be coordinated. They must begin at the same time and recite the same prayer, or the result is cacophony. And who is to coordinate their "free exercise" if not the same authority which brought them there—the public school authority, acting through its school board, superintendent, principal, and teachers? Through this agency the children will be quieted at a given moment, it will be announced what they are now to do, and a common form of prayer will be specified—whether by the teacher, a majority of students, or one student chosen in rotation or at random. It is the authority of the teacher which coordinates the "free exercise" of this kind of religious activity, and the teacher has very little "free exercise" to decide whether or not to coordinate it if the principal or school board so requires.

This collective religious activity in a public institution whose members are present, in the ultimate analysis by force of law, is a reversion to territorialism—the imposition of religious forms upon a whole people by the governing authority, whether prince or school principal or majority of the populace. For members of the minority, who are no less citizens because their faith is different, the result is not merely a moment or two of inconvenience but an impairment of equal citizenship. For to the extent that the "free exercise" of religion by the majority is repeated, obstentatious, and collective in a public institution, to that extent the minority are less participants in, proprietors of, that public institution. Their citizenship has been diminished to the very degree that their fellow citizens' of the majority has been increased.

From the minimal form, the Becker and other amendments would permit an infinite range of exceptions to the brave American experiment, not the least of which would be the "religious test" which might be written into oaths of office, marriage licenses, driver's licenses, voter registration forms (all of them "public . . . documents"), etc. There is nothing in the Becker bill which would prohibit a governor from prescribing hour-long Pentecostal worship services to begin each day in each department of the executive. Nor is there anything in it which would prevent the Government Printing Office in Washington from publishing spiritualist tracts. It is an open-ended document, permitting almost anything that was once eschewed by the First Amendment. And there would be no part of the Constitution which could prevail against it: *"Nothing* in this Constitution . . .," the Becker proposal says.

THE HEAVY HAND OF THE STATE

A further danger inherent in the proposed amendments is that they serve neither God nor religion. The heavy hand of the state on religion is inevitably deadening, for the state and religion have two very different purposes. Religion must be free to speak with an independent voice, and must never become denatured by striving for least-common-denominator prayer.

Religion can never be strong if the state persists in pretending that finer people can be created in schools through formal, innocuous, vapid religious services led by people to whom they do not have deep religious meaning. Public statements by proponents of these amendments seem to assume that "prayer is prayer" and the content does not matter. They seem unable to realize that, for a great many citizens, the content of prayer is its essence: they do not wish their children to engage in degrading prayer whose content is vague or innocuous.

It is a challenge to the imagination to hear proponents of the Becker bill maintaining that there is not a word in it which would authorize any government agency to choose, write, or prescribe a prayer. One conjures up the vision of The Prayer Which Nobody Chooses: it springs sponstaneously from nowhere.

There are strong undertones in the proposed amendments that masquerade as proreligious, though dangerously anti-religious. The state is to be empowered to use religion in the schools as a cure-all for juvenile delinquency. Prayer becomes caricatured and distorted when it is used as a gimmick to achieve secular, disciplinary ends. In the *Billard case* (*Billard v. Board of Education*, 69 Kan. 53, 55–58, 76 P. 422, 423, 1904), the teacher, whose use of the Lord's Prayer and the Twenty-Third Psalm was before the court, testified that the exercise served disciplinary rather than spiritual purposes:

"It is necessary to have some general exercise after the children come in from the playground to prepare them for their work. You need some exercise to quiet them down."

Mr. Justice Brennan has pointed out (in Part IV, Section A, of his concurring opinion in the *Schempp* decision) that the Pennsylvania Superintendent of Public Instruction, testifying by deposition in the *Schempp* case, offered his view that daily Bible reading "places upon the children or those hearing the reading of this, and the atmosphere which goes on in the reading . . . one of the last vestiges of moral value that we have left in our school system." The exercise thus affords, the Superintendent concluded, "a strong contradiction to the materialistic trends of our time."

Baltimore's Superintendent of Schools expressed a similar view of the practices challenged in the *Murray* case, to the effect that "the acknowledgement of the existence of God as symbolized in the opening exercises establishes a discipline tone which tends to cause each individual pupil to constrain his overt acts and consequently to conform to accepted standards of behavior during his attendance at school." Mr. Justice Brennan has pointed out that *"Torcaso* and the *Sunday Law Cases* forbid the use of religious means to achieve secular ends where non-religious means will suffice."

History is full of examples of these attempts to employ religious practices for secular ends. Carl Sandburg records in his monumental *Abraham Lincoln* (Volume 3, page 369):

"The piety of the House and Senate chaplains, and the curious reference of one of them to the President's habits, were the topic of a Noah Brooks news letter April 9, 1864. Chaplain Channing of the House 'gave the Lord a graphic description of the Statue of Liberty on the Capitol dome in his prayer one morning,' wrote Brooks. The House chaplain however had not offended any of his audience as had the Senate chaplain, Senator Saulsbury of Delaware offering this for passage:

"Resolved, That the Chaplain of the Senate be respectfully requested hereafter to pray to and supplicate Almighty God in our behalf, and not to lecture Him, inform Him what to do, or state to Him, under the pretense of prayer, his (the said Chaplain's) opinion in reference to His duty as the Almighty; and that the said Chaplain be further requested, as aforesaid, not, under the form of prayer, to lecture the Senate in relation to questions before the body."

The ultimate in harnessing prayer for secular ends was achieved in 1949 when Dr. Torrance Phelps offered the following prayer for the California State Assembly:

"O God, upon this day, when taxes were levied on the colonists that precipitated the Revolution, we pray that Congress may beware of taxing our country into exhaustion.

"Taxes of wasteful duplication, of inefficient agencies; taxes of pork-barrel maneuvering and handouts by political log-rollers who think the public exchequer is bottomless.

"Taxes that eat up the investing capacity and decrease the surplus devoted to charitable and character-building institutions that mould the foundations of democracy.

"May the people learn the peril of spending more than they earn, the peril of a nation spending beyond its resources, and the peril of that rosy optimism that "Eldorado" is around the corner.

"May the people remember that a sound nation cannot spend its way into Utopia. Amen."

Prayer is not asking God for something. As Kierkegaard has put it:

"Prayer is not founded in the truth when God hears that concerning which one prays to him; it is founded in the truth when he who prays continues to pray until he is himself the one who hears what God wants."

How can this kind of prayer be legislated? St. Jerome said:

"Choose for thyself some fit place where as unto a haven thou mayest take thyself out of the great storm and tempest of thy cares and there appease with tranquil solitude the noise of outward troubles. Let there be prayer and study of the Divine Word, and meditation on eternal things."

This is true prayer. The word "prayer" stems from the Latin "prex"—an entreaty—held by the favor and at the pleasure of another. From "prayer" comes "precarious." Prayer is precarious—if misused, it can turn children away from God, and from religion too.

The Supreme Court's decisions do not forbid children to pray. Protestants have never insisted that it is necessary or desirable that prayer be collective, formal, or oral to be heard by God. Rather, as Justice Black's opinion expressed it in one of the great statements of our day:

"The first amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support, or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office."

THE NATURE OF PRAYER

The nub of this issue before us today is the nature of prayer. When prayer becomes coercive and forced, it is not prayer. The formulators of the First Amendment were not indifferent to religion. The principle of separation of church and state was not worked out solely for the purpose of keeping one denomination out of the hair of another, as present critics of the Supreme Court seem to imply—to neutralize religious controversy.

Basically the First Amendment was adopted because the Founding Fathers believed that religion flourishes best where it is the responsibility of the church and the home—that religion thrives where it is voluntary and not dependent on the coercive power of the state.

At the time our Constitution was being formulated, delegates in church assemblies of the Baptists in Rhode Island and New Jersey, and in the Presbytery of West Chester, Pennsylvania, were insisting that only religious activity which is voluntary is really significant: that under duress or coercion, religion is not significant for the individual in the sight of God.

Jesus said: *Beware of practicing your piety before men in order to be seen by them . . .* (Matthew 6:1). What begins as a spontaneous and sincere outpouring of devotion—if routinely and casually repeated, imposed upon those who do not share the experience of devotion—can become pious hypocrisy and arrogant display, using God's name in vain. There are many who find in this and similar scriptural references a continual warning that our transactions with the Most High must be inward, sincere, wholehearted, intense, reverent, voluntary. Routine, formalized, scheduled, public "official" prayer is the opposite of this.

In the provisions for Bible reading in the schools, the issue of censorship must inevitably raise its ugly head. Not all of the Bible is edifying. Innumerable passages outdo *Fanny Hill* in minute descriptions of murder, jealousy, revenge, rape, adultery, fornication, illicit love, sodomy, homosexuality. What will prevent a teacher from inadvertently choosing one of these many passages? (See Genesis 19:30–38; Genesis 34; Leviticus 18:22; Leviticus 20:12–13; Numbers 5:11–31; Deuteronomy 23:17–18; Judges 19:22–26; I Samuel 2:22–25; Proverbs 6:23–32; Proverbs 7; Jeremiah 3:1–9; Ezekiel 23:1–10; Hosea 4:11–14; Amos 2:1–8). Shall democracy relish children's shrieks of vindictive glee over what God is invoked to perform on the wicked man in Psalm 109 and other psalms equally imprecatory? Suppose an atheistic teacher, wishing to hit back at the school board for forcing her to read the Bible, selects one of those passages deliberately. Who is to select? To which person's subjective judgment will this great power of censorship be delegated? Suppose a clergyman in a school district protests that the "right" prayers are not chosen. Is it preposterous to imagine that candidates for school boards might conceivably run for office on the basis of protecting or rejecting a Bible story?

It is possible to transmit the spiritual meaning and significance of the Bible without some interpretation? In the home, and in the church and synagogue, Bible stories can be interpreted; the child can talk back and ask questions. Public school teachers should not be selected for their interpretation of or familiarity with the Bible. Mark Twain used to say that the things he could not understand about the Bible gave him very little trouble. It was the things he could understand that gave him all the trouble he was looking for.

Just at a time when in my own community on the East Side of New York, amiability and mutual trust have been created among religious leaders of all faiths, are we to inject the strongly divisive question of what scriptures or what prayers are to be used in our local public schools?

There are in America today 65 million Protestants, 44 million Roman Catholics, and more than 5½ million Jews. Of a total United States population of 190 million, almost 115 million Americans profess belief in God. And a legislative body is asked to make it possible for the government to help us preserve our powerful faith!

Instead of circumventing the Supreme Court's decision, should not our churches and synagogues gird themselves to measure up to it by preparing a bold advance to help families pray at home, to show parents how to lead children in prayer before they go to school in the morning, to share such vital, contagious, honest faith that religion cannot perish from the nation?

We are not nearly as religious a nation as we ought to be. But are we ready to say that the insights of our Founding Fathers are wrong, and that we are less good than citizens of lands in which the state actively supports religion? Observe Spain and Italy (Roman Catholic), Greece (Orthodox), Sweden (Protestant). In every one of these countries with state religions, the schools do everything the Church wants them to do in religious nurture and exercise. Do we find these other nations any less secular or more godly than our own? There is no evidence of superb vitality in the spirit of religion among these people because the state helps them with their practice of it. With the schools supporting religion fully, the suicide rate in Sweden is among the highest in the world.

RELIGIOSITY OR RELIGION?

Do we want religiosity or religion? Surface piety or commitment? Outward slogans and symbols, or a deep inner response? An Englishman has remarked, in commenting on prayer in public schools:

"This kind of routine formality I think serves as an inoculation against really getting religion. If people think that religion consists of certain salutes and gestures, then they hand to the government the task of taking over when it is hard to get them to accept the fact that religion is a way of life and a commitment. Any Communist traitor can give the salute to the flag, and it doesn't mean a thing to him—unless it is in a context that makes it of real symbolic significance."

Unless God is worshipped "in spirit and in truth," and prayer is honest and sincere, it profiteth nothing. Prayer, Bishop Brent used to say, is "loving our neighbors on our knees," not asking God's blessings on ourselves.

Meaningful prayer and scripture meditation take place effectively only within a context, in an atmosphere—not as classroom routine along with the salute to the flag. Leading children in prayer requires the creation of a response within human hearts, and government has neither the facilities nor the right to attempt this. This is why it is wrong to have prayers in a public school even when Jews, Protestants, and Catholics may agree on the least-common-denominator prayer and passage of scripture to be used.

Leaders who have wisely insisted that we must rely on church and home—and not on government—in matters of religion, now lash out against the Supreme Court's reasoning. Leaders who have consistently demanded that government stay out of business, now proclaim that without government's backing, the God of Abraham and of Jesus may be destroyed. Since when does religion run to the government to save God?

Christianity was once almost wrecked when the Roman Emperor Constantine gave it official sanction and made it respectable. Soren Kierkegaard said of any kind of Christianity that looks to government for aid: "If it wishes the help of government, it betrays the fact that it is not the Christianity of the New Testament." (*The Attack Upon "Christendom,"* Princeton, 1944)

Piety in its early form meant pity. "Thou art a merciful God—and of a great pietie." The pious are expected to show pity—compassion, understanding—for those who do not share their religious attitudes and beliefs. It is of the essence of religion that it protect the rights of the non-religious.

Judaism and Christianity have both survived active hostility of governments, and do not now require the protection or intervention of government to sustain them. In fact, they have been weakest in just those societies where the state has undertaken to sponsor and promote religious activities in public institutions.

The threat is not the secularization of our schools but the secularization of our religion.

Mr. Speaker, I also ask leave to extend my remarks to include a recent letter from Bishop J. Brooke Mosley, president of Union Theological Seminary, in opposition to House Joint Resolution 191. Bishop Mosley's letter and his statement of opposition to House Joint Resolution 191 are as follows:

UNION THEOLOGICAL SEMINARY,
New York, N.Y., November 1, 1971.

DEAR FRIENDS, It is reported that The Prayer Amendment will soon be before you for vote.

As leaders of religious institutions, we want you to know that many of us are emphatically opposed to this amendment for the reasons indicated on the enclosed statement.

We ask you, please, to read the statement and urge you to vote against the amendment. And we wish also to express our appreciation for your ministry in Washington on our behalf.

Gratefully,

J. BROOKE MOSLEY.

STATEMENT OF OPPOSITION TO PRAYER AMENDMENT

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urge you to oppose the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly *America*, is an "ill-written, mischievous and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-

Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers') specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayed with integrity either by the believers or the unbelievers. It could only become a "pro forma" exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious literature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge the members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution.

J. BROOKE MOSLEY,
President, Union Theological Seminary, New York.
COLIN WILLIAMS,
Dean, Divinity School, Yale University, New Haven.
CHRISTOPHER F. MOONEY, S.J.,
President, Woodstock College, New York.
GEORGE W. WEBBER,
President, New York Theological Seminary, New York.
EDWARD R. HARRIS,
Dean, Philadelphia Divinity School, Philadelphia.

Mr. SCHEUER. Mr. Speaker, today the House is considering the controversial issue of prayer in public buildings. The proponents of House Joint Resolution 191 claim that it will protect religious freedom and promote morality in our society. Any measure which claims to have such worthy effects is very hard to resist. However, I am convinced that the Wylie prayer amendment cannot accomplish these noble goals, so I must vote against it.

First, it is dangerous. By seeking to amend the first amendment for the first time in history, it would establish the hazardous precedent of entangling the state in church affairs. Church and state are, and must remain, independent institutions in our society. Any measure which invades this autonomy must be defeated. By allowing the state to dictate religious formulations and by encouraging the state to foster religious participation, House Joint Resolution 191 threatens to destroy one of our basic constitutional principles. For that reason, it must not be enacted.

Second, it is ambiguous since the wording of the amendment is explicitly inexplicit.

Nothing contained in this constitution shall abridge the right of persons lawfully assembled in any building, which is supported in whole or in part by the expenditure of public funds, to participate in nondenominational prayer.

What is nondenominational prayer? Since the resolution gives no explicit definition, it will require interpretation by the courts, further entangling church and state. Also the composition of nondenominational prayer reduces prayer to its lowest common denominator and compromises it to empty formulations.

Which Government officials will compose the prayer? I wonder if our children will have to learn a new prayer every time a new legislature is elected or a new school board or a new judge. The end result of the involvement of Federal, State, and local governments in the composition of prayer will be the secularization of prayer, which is demeaning to an individual's religious faith.

Third, the Wylie amendment is unnecessary. The right to pray voluntary has never been challenged; it is an unshakable right which Americans have always had. So the amendment is protecting a right which is already guaranteed, and is thus completely unnecessary.

Fourth, the Wylie amendment is counterproductive. It will lessen religious freedom, not broaden it. It will result in the coercion of individuals and the violation of individual rights. If the amendment is adopted, the Government will be forcing prayer on a captive audience, and many children will feel pressured to participate, even if they would prefer not to or do not understand in what they are participating. We must not allow this type of coercion to become an accepted precedent in our public schools.

Finally, the Wylie amendment is ineffective. The hoped for beneficial effect of the prayer amendment on public morality is dubious. Nothing could be better designed to alienate children from commitment to religious faith and values than being forced to recite bland words in a classroom. There could be no better way to dilute religious faith than to compromise it into nondenominational prayer. If we adopt this amendment, we will not have done so for morality in the name of God, but rather for political expendiency.

I do not mean to disparage the sincere efforts of people who seek to increase the influence of religion in our society. But this is not the right vehicle. Prayer belongs in the home, the church, the soul, but it is not something which should be legislated into public policy or public places.

Mr. RYAN. Mr. Speaker, House Joint Resolution 191 proposes an amendment to the Constitution which is commonly called the school prayer amendment.

It provides:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

This amendment originated as a response to decisions of the Supreme Court concerning prayer in the public schools. Until 1962 many public schools opened the day with a classroom prayer, which was often required or authorized by State law. Then the Supreme Court in *Engel* v. *Vitale* (370 U.S. 421) struck down this practice, on the grounds that the first amendment prohibits a State from composing prayers to be used in its public schools. In 1963, the Supreme Court decided *Abington School District* v. *Schempp,* (374 U.S. 203) holding that State laws which required classroom devotions based on the Lord's Prayer and which authorized reading from the Bible as a religious exercise in school was unconstitutional.

The Supreme Court's rationale in both Engel and Schempp was that the constitutional separation between church and state can only be protected if the government remains neutral in the area of religion. In both these cases, the Court was careful to point out that the decision did not prohibit the objective study of the Bible or of religion. The Court also stressed that these decisions did not affect previous decisions which allowed students to be released from school in order to receive religious instruction off the premises.

The Engel and Schempp cases stirred a great deal of controversy. Indeed, the day after Engel was decided several resolutions were introduced in Congress to amend the Constitution in order to permit State-sponsored school prayer such as that struck down by the Court.

In response to the resolutions introduced in Congress, the House Judiciary Committee conducted 3 months of hearings on the proposed prayer amendments during the spring of 1964. During these hearings leading constitutional lawyers and religious leaders of almost every faith opposed the proposed amendments, and after extensive deliberations the committee could not find any language which it could recommend to the House.

The Senate Subcommittee on Constitutional Amendments held hearings on similar proposals in 1966 and also failed to report out a prayer amendment. Also in 1966 the Senate voted against a prayer amendment offered by Senator Dirksen.

And now the House Judiciary Committee has been discharged of House Joint Resolution 191, and the issue confronts the House. The proposed amendment would overturn the Supreme Court decisions which held state sponsored prayer violative of the first amendment prohibititon that:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

It would limit, for the first time in our history, the application of the Bill of Rights. Every amendment to the Constitution which has dealt with the Bill of Rights—the 13th, 14th, 15th, 17th, 19th, 23d, 24th, and the 26th—has expanded rather than restricted these precious freedoms.

Having suffered religious persecution, the Founding Fathers propounded the first amendment to prevent the occurrence of religious persecution in this country and to protect religious freedom.

To inject government into religion is frought with dangerous consequences. Under the amendment government would ineluctably become involved in the definition of religion. Government officials,

at some level, will have to define what a "nondenominational" prayer is. And that will engender endless controversy, for it is nondefinable. There is a wide variety of religious sects in this country. As the Supreme Court recognized in *Torcaso* v. *Watkins* (367 U.S. 488) there are over 80 different religious sects in this country with more than 50,000 adherents, which qualify as a religion within the proper construction of the first amendment. Among these are polytheistic sects such as Hinduism, a religious faith recognized in this country as early as Madison's writings on religious toleration. Included also are nontheistic faiths.

As Prof. William Van Alystyne, of the Duke University Law School, pointed out in a letter dated October 4, 1971, to Chairman CELLER, it is simply not possible—even if it were desirable—to compose a prayer which is really "nondenominational."

For example, the mere reference to a God is disrespectful and incompatible with both nontheistic denominations and polytheistic denominations. Any prayer acknowledging the immanence of a living God, or one responsive to prayer itself is disrespectful of tenets of Deism, a religion adhered to by some of the Founding Fathers who helped draft and adopt the first amendment.

However, whether the proposed amendment refers to "nondenominational prayer" or to voluntary prayer or meditation, the constitutional issue is the same. The amendment would breach the wall separating church and state, which our Founding Fathers wisely constructed, and launch the Government upon the uncharted course of defining the outer limits of prayer and religion.

In summation, the proposed school-prayer amendment is ill-advised, ill-drafted, and inimical to our fundamental freedoms. I hope the House will have the courage to defeat it now and not pass this basic issue on to the 50 State legislatures, thus embroiling their members in emotional controversy.

Mr. BOLAND. Mr. Speaker, the constitutional amendment sought in House Joint Resolution 191 would breed many nettlesome problems—problems that might ultimately threaten religious liberty itself. I want to make it plain, at the outset, that I am not challenging the motives of those who support House Joint Resolution 191. Like them, I believe religion is a vital part of American life. Like them, I believe our tradition of religious freedom should not yield to any assault.

I am equally convinced, however, that the constitutional amendment now before us would erode that tradition. Indeed, the constitutional provisions now safeguarding religious liberty would be seriously compromised.

Virtually every major religious body in the United States shares this view—the United States Catholic Conference—the national action agency of the Roman Catholic Bishops—the United Presbyterian Church, the Presbyterian Church in the United States, the Lutheran Chuch-Missouri Synod, the American Lutheran Church, the Lutheran Church in America, the National Council of Churches, the Southern Baptist Convention, the American Baptist Convention, the Unitarian Universalist Association, the United Church of Christ, the Church of the Brethren, the United Methodist Church, the Protestant Episcopal Church, the Mennonite Central Committee, and the Joint Advisory Committee of the Synagogue Council of America, and the National Jewish Relations Advisory Council, which includes all of the major Jewish secular and religious bodies.

The amendment is also opposed by the AFL–CIO Industrial Union Department, the Friends Committee on National Legislation, and the American Civil Liberties Union.

Just briefly, Mr. Speaker, let us examine the Supreme Court's ruling in the 1962 Engel against Vitale case—a ruling still embattled after nearly a decade. What exactly did the Court say? Contrary to widespread opinion, the Court most emphatically did not ban prayer in the public schools. Any school child can still exercise his religious rights. In fact, he can pray throughout the school day—at his desk before schoolwork begins, while walking between classes, during scores of opportunities offered him from early morning to late afternoon. What the Court did rule is that political authorities—school boards, for example, or school commissioners—could not compose prayers and demand that school children recite them verbatim during formal observances.

No one should have the power to tell children just how they will pray and just what words they will utter when doing so. The first amendment plainly and explicitly forbids any practice even remotely akin to this, prohibiting any law "respecting an establishment of religion." A prayer written by a Seventh Day Adventist might leave a Catholic aghast, just as a prayer written by a Catholic might offend a Jew.

Widely misinterpreted, the Supreme Court ruling was greeted by outrage. Hundreds of proposed constitutional amendments, all seeking to restore prayer exercises to the public schools, have been introduced in the Congress over the past decade. The House Judiciary Committee, yielding to demands from throughout the United States, plunged into the issue in 1964. It held 3 months of exhaustive hearings, soliciting the opinions of constitutional experts and religious leaders. The testimony was nearly unanimous: virtually all of them objected to the proposed amendments. The Senate's Subcommittee on Constitutional Amendments encountered the same kind of opposition.

House Joint Resolution 191 reached the floor today through discharge petition, a parliamentary device that takes the bill away from the committee that normally holds jurisdiction over the legislation. Here is the resolution's text:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer.

The text—astonishingly—says nothing about voluntary prayer. Indeed, it hardly event hints at voluntary prayer. The wording is so vague and so muddled that House Joint Resolution 191 might be interpreted, with some justification, as investing school boards with the same kind of summary powers the Supreme Court stripped from them in 1962. It ignores the right not to pray in public schools.

Even if the prayers sanctioned by House Joint Resolution 191 are wholly voluntary, religious liberty would still be in jeopardy. What about schoolchildren who are agnostic, or freethinkers, or "humanists"—or those who simply object to the idea of parroting what the resolution describes as nondenominational prayers. Advocates of formal school prayer say that these students, should they want to exercise their right, can—well, leave. Young boys and girls confronted with such a dilemma would be humiliated—or embarrassed, at the very least—every day of the school year. Many would be shunned by their classmates and scorned as "oddballs." Is this religious freedom?

House Joint Resolution 191 would threaten religious freedom if just one child—yes, just one—is bullied or intimidated by it. The elementary rights of American citizens are not set up or swept away by majority vote. Indeed, the Constitution's Bill of Rights was written to shield minority groups against what de Toqueville called the "tyranny of the majority." If the rights of a freethinker or a Buddhist or a Seventh Day Adventist are diluted, then your rights and my rights are diluted, too.

The text raises still another question, Mr. Speaker: Just what is nondenominational prayer? The world's most schooled and skilled theologicians cannot agree on a definition of prayer itself, let alone nondenominational prayer.

Who is to compose such a prayer? Any effort at composition would give rise to endless squabbling and nitpicking. Even if such a prayer could be written, it would be so bland and so meaningless that it would stick in our throats.

I ask my colleagues to envision themselves in the role of a religious minority. Let us assume that America's three major faiths—Protestant, Catholic, and Jewish—are tiny minorities dwarfed by another faith such as, say, Shintoism. Let us assume, still further, that members of this dominant Shinto sect compose a prayer and stipulate that your children must dutifully and docilely recite it each schoolday. Would you consider this religious freedom? Would you consider it religious freedom even if the prayer is nondenominational—that is, vague enough to avoid quarrelsome disputes among Shinto sects but still alien to you?

The answer, I think, is obvious.

House Joint Resolution 191 would establish a chilling precedent—redrafting the Bill of Rights for the first time in this Nation's history, and bringing Government into religious affairs that are properly our own.

Mr. VANIK. Mr. Speaker, as we consider House Joint Resolution 191, the so-called prayer-in-school constitutional amendment, I have grave misgivings about the parliamentary procedures which prohibit and restrain the individ-

ual legislator from amending or developing an effective amendment on this issue of prayer. The House of Representatives is asked today to approve or disapprove the language of an amendment to our 180 year old Bill of Rights, without any substantive right to modify or clarify the language. Under the procedure, the author of the amendment (Mr. WYLIE), of Ohio, has the sole and exclusive power to permit an amendment to his proposal. Never has so much power on such an important issue been vested in an individual Member of the Congress of the United States.

I believe in the power and goodness of prayer. I constantly urge my family and my fellow citizens to participate in prayer—but I do not believe that prayer can be ordered by government authority into the daily lives of our citizens.

Prayer is a personal, private, and individual matter. Today's amendment would set the stage for prayer by compulsion. Prayer by compulsion would destroy freedom of religion by compelling children to recite a government-approved prayer.

The movements which developed in support of this constitutional amendment is based, largely, on a misunderstanding of the Supreme Court's decisions in the area of prayer in school. The Court never for an instant said that people could not pray when and where they wanted to. If a child wants to pray before the start of a school day, he most certainly can. What is prohibited is the compulsory participation in government-designed prayer. In decisions in the school prayer cases, the Court expressly reaffirmed its earlier holding that we are a religious people whose institutions presuppose a "Supreme Being." The Court directly supported objective teaching about religion and the study of the Bible, both Old and New Testaments, and other world religions. The Court indicated that its decisions in no way affect the availability of chaplains in our armed services, legislatures, and prisons. They did not affect references to God in oaths of office and of witnesses, on coins and public buildings, in our National Anthem, and the Declaration of Independence.

We definitely are a religious people. But each person's religion is a matter between him and his God, a matter to be decided by each individual. Government must not interfere, in any way, with this most important and most sacred and personal of all individual acts.

This land was settled largely by imigrants who came seeking religious freedom and escape from the dominant and to them objectionable state religion of their homeland. All too often these early settlers established their own dominant religion in the new colonies which they founded. This led, in the period 1607 to 1776, to religious intoleration in the New England colonies, Maryland, Pennsylvania, and Virginia. There was persecution, arrest, and punishment because of religious differences and beliefs.

Therefore, in an effort to preserve individual liberty and end religious controversy, the people of the individual States demanded a Bill of Rights, including the first amendment, as a condition for approving the Constitution establishing the new Nation. Since 1790, we have added other amendments to the Constitution which expanded the rights and liberties of the people. The one exception, the prohibition amendment, was repealed after 13 unsuccessful years. Thus it can truly be said that the history of American democracy has been the gradual realization, too fast for some and too slow for others, of the full implications of the Declaration of Independence, that:

All men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

And certainly then and certainly now religious liberty is one, if not the most important, of all unalienable rights. Yet the amendment before us today, for the first time in the Nation's history, curtails the liberties protected by our Bill of Rights.

The language of the Buchanan—Alabama—amendment to the Wylie amendment—the only amendment permitted by Mr. WYLIE, of Ohio—strikes out the words "nondenominational prayer" and inserts the words "voluntary prayer or meditation." This amendment to the prayer amendment confuses the issue by striking the word "nondenominational." Does the House of Representatives now intend such prayers to be denominational? Shall these prayers be Baptist in Baptist areas, Catholic in Catholic communities, Jewish in Jewish communities? What about minorities in these areas? Must they stand aside as separate and apart from those involved in the special prayer of the community?

Even if the content of school prayer can be resolved, can prayer be made voluntary in a place where attendance is required? A schoolchild of tender years is seldom capable of making a voluntary decision to pray or not to pray. Should we ask or expect a child of one faith to step aside from his friends and peer group when the prayer being recited is alien to him? However high the motives, should we undertake a classroom procedure which separates and divides the members of the peer group? Should the prayers which unite us in the church of our choice be permitted to divide us in our schools? How much more division can our society endure?

Citizens of this Nation are marshaled on each side of this issue. It is opposed by most religious groups, including the following:

United Presbyterian Church.
Presbyterian Church in the United States.
American Lutheran Church.
Lutheran Church in America.
National Council of Churches.
Southern Baptist Convention.
American Baptist Convention.
United Church of Christ.
Church of the Brethren.
United Methodist Church.
Protestant Episcopal Church.
Mennonite Central Committee.
Friends Committee on National Legislation.
Joint Advisory Committee of the Synagogue Council of America and the National Jewish Relations Advisory Council, which includes all of the major Jewish secular and religious bodies.
United States Catholic Conference of Bishops.

I have received hundreds of letters on each side of this issue. I cannot decide this issue by "weighing the mail." As a legislator, I must come to a judgment which must be made in my own mind and conscience.

I do not agree with some of the lower court decisions on the prayer issue. They are likely to be corrected by further clarifying decisions of the Supreme Court.

The first amendment to the Constitution is over 180 years old. I do not believe it should be tampered with under a parliamentary procedure which gives the 435 Members of the House of Representatives no opportunity to participate in the construction or clarification of the language in this effort to change the fundamental law of the land.

I expect to vote against the prayer amendment to the Constitution. Prayer is a personal, private, and individual matter. The amendment would set the stage for prayer by compulsion. Prayer by compulsion would destroy freedom of religion by compelling children to recite a government-approved prayer.

Mr. DANIELS of New Jersey. Mr. Speaker, I rise in opposition to House Joint Resolution 191. In doing so I want to make it clear that I believe very deeply in the power of faith and religion. It is because of that belief that I oppose the amendment before us today.

I object to House Joint Resolution 191 on the grounds that this amendment does nothing to cure the defects of earlier prayer cases which dealt, not with the permissibility of prayer, but with the question of writing, sponsorship, and coercion of such prayers by State and school officials.

House Joint Resolution 191, as far as providing what many of our constituents desire, is a sham. Furthermore a nondenominational prayer written by government representatives—assuming it is possible to write one—has little to do with and would dilute any religious observance into a banal and meaningless recitation; it would create divisiveness within the community and would create more problems than it might solve.

I think it is obvious that the issue before this House today is not whether people should be allowed to pray in a public place. Indeed religious leaders and legal scholars agree that the Supreme Court's decisions do not preclude such prayer. Rather, by voting on House Joint Resolution 191, we are asked to resolve today whether children shall be required to take part in an exclusively nondenominational school prayer which in all likelihood will be written by State and school officials.

Many responsible parents, concerned that their children's denominational religious training not be interfered with, may object to their children taking part in a nondenominational religious exercise. Many children, therefore, will be instructed by their parents, priest, pastor, minister or rabbi to remain silent while their friends are taking part in a religious exercise totally foreign to their own religious training.

As someone who has spent a great deal

of time as chairman of the Select Subcommittee on Education, as a parent and grandparent, I understand the grave problems we face in educating children. They are very impressionable and much care must be taken to prevent placing them in situations which may be confusing and disruptive of religious teaching they receive in their homes and churches.

The response, suggested by some of my colleagues, that the prayer provided for by House Journal Resolution 191 is voluntary seems not to be relevant. If a prayer is sanctioned and administered by school officials, the State suprintendent of education, or the Governor, I do not believe that a child can make the legal distinction that a prayer might be "voluntary."

Even if the prayer were to take place outside the child's home classroom, his absence from any of the official prayer services or the services of the majority faith is sure to be noticed by his classmates. No longer will he be one of them, but someone isolated and different. Children do not crave such distinction. They seek and need the approval of their peers and classmates.

This choice, whether to conform to the instructions of parents and clergy or to friends and classmates is a terrible one for a child and unnecessary.

The entire history of school prayers is filled with the experiences of children who faced teachers and officials eager to press upon them their own particular brand of religion. A well-renown legal scholar in a study of the issue documented some of the experiences as follows:

By no means untypical were the experiences of Father John Bapst who was tarred and feathered because he urged Catholic children not to participate in Bible reading in the public schools of Ellsworth, Maine; or of 11-year-old Tom Wall in Boston who was beaten with a rod by his teacher for a half-hour until he finally yielded and participated in Bible reading; or of the hundred or more Catholic children who were expelled from the public schools in Boston for the same reason; or of the Indiana Catholic girl who was kept in school after dismissal day after day as punishment for refusal to participate in "nondenominational" reading from the King James Bible; or of the many thousands of Jewish children all over the United States who sat silently but with great mental anguish while the teacher read from the New Testament the account of the crucifixion of Jesus by the Jews.

The experience of Catholic and Jewish children, as well as of children of other minority faiths and of no faith, show too how unrealistic is the claim that participation is or can be entirely voluntary. Few children of elementary school age have the courage or foolhardiness to isolate themselves and face the disapproval of their teachers and classmates by not participating in a prayer service which has the sanction of school authorities.

Some state courts recognized reality and held that there is not and cannot be "nondenominational" or "nonsectarian" Bible reading or prayer, and that truly voluntary participation is similarly impossible. Unfortunately, these were a minority, and it was the Supreme Court's decision in Engel and Schempp that brought an end to this sad chapter in American history. It would be unfortunate if it were reopened by adoption of H.J. Res. 191.

Whether the prayer is voluntary or not, the amendment requires that it be nondenominational. I have thought about this for some time and frankly do not understand what this term means as regards prayer. What kind of prayer is it that makes no reference to any one belief or even to God? I have consulted with a number of religious leaders and they too expressed confusion. The problem is not a new one and has been put before the leaders of several national religious organizations whose function it is to pass upon these questions. In a reply agreed to by Catholic leaders and signed by leaders of organizations representing Protestants and Jews they said:

The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of "nondenomination" prayer. . . . "If such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could destroy the integrity of both church and state.

If religious leaders cannot agree upon an acceptable nondenominational prayer after many years of earnest attempts, it seems unlikely that school officials, lacking any training in religious doctrine, will honestly be able to do so.

There is a grave danger, moreover, that these officials faced with a vocal minority or even a majority, will bow to the pressures of political expediency and devise what only in their own opinion is nondenominational prayer and acceptable only to whomever in the community can speak the loudest and make the most trouble for school officials. The result will be what it has been in the past, community turmoil, anger, divisiveness, and the destruction of longtime friendships among decent and sincere people of different faiths.

Even if it were possible to write an acceptable nondenominational prayer, I have grave problems with such prayer from a religious standpoint. I believe very deeply in the power of religion and faith. I also know that not only is it important what people believe, it is equally important how they reach that belief. The form of their faith is as crucial as its substance.

Indeed, as a religious person I find it difficult to imagine as meaningful, a prayer which by law could not make any reference to my faith, to the faith of my non-Catholic and non-Christian friends, nor even to God as any of us see Him. Surely such a prayer can only begin "to whom it may concern" and continue with similar sterility. Such a prayer can only dilute the faith of children who are asked, whether voluntarily or under coercion, to take part.

The type of prayer which would be permissible under the phrasing of the amendment would daily destroy all distinction among different religions. Catholic, Protestant, and Jewish parents and clergy who spend great time and effort instructing their charges in their respective faith and to develop through that a faith a moral code, will find themselves competing with a nondiscript, State-authorized, State-sanctioned government religion reinforced daily in the public schools. I find this prospect both insidious and subversive to the faith in which I have been brought up, in which I have instructed my own children, and in which my own grandchildren are being instructed.

I agree wholeheartedly with the U.S. Catholic Conference in the belief that parents and the church and synagogue are the proper repository of religious faith; that nondenominational State school prayers will only dilute that faith into a meaningless recitation as trivial as a kindergarten rhyme.

Mr. GRAY. Mr. Speaker, I rise in support of House Joint Resolution 191. Our forefathers came to this country in order to be able to worship their God at the free dictates of their own conscience. America has grown out of the wilderness over the years to become the greatest country in the world, in great part due to its religious heritage. Millions of Americans were distressed and inconsolable when the Supreme Court ruled that prayers could not be offered in the schools throughout the land. I proudly signed the discharge petition to bring the prayer amendment to the floor of the House of Representatives today because I felt that this matter is of vital importance if we are to survive as a free and democratic society. There are many good friends in my district who will argue that the proposed Constitutional amendment before us today will be cumbersome and will only confuse the issue. I respectfully take exception to this viewpoint because, Mr. Speaker, the proceedings in this very Chamber are opened each day by prayer.

I have witnessed during my 17 years ministers from all faiths and all religious beliefs take part in the opening prayer of Congress. State legislatures throughout the land, and every conceivable function where people are gathered together open the program with a nondenominational invocation and benediction. Why, then, one would ask, would we be opposed to allowing schoolchildren to have this same love and respect for their Maker as adults? This is particularly true since the so-called nondenomination prayer has been stricken by an amendment changing the word to "voluntary" from "nondenominational." This simply means that a school principal would be allowed to open school with a voluntary prayer without interference from the courts. This is very simple, sensible, and nondiscriminatory. How could anyone deny such a privilege to those who seek it?

Mr. Speaker, I am happy to state that America's No. 1 evangelist, Dr. Billy Graham, has come out strongly in favor of the proposed amendment. In a telegram Dr. Graham states:

I do not believe the Constitutional Amendment jeopardizes the historical separation of church and state as some have alleged. Our greatest danger lies in the direction that secularism and atheism will have the unofficial religion of America. I see no danger in the Amendment. If I were a Congressman I would vote for it. I believe that the overwhelming majority of the American people want prayer in the schools.

Mr. Speaker, I realize this is a highly emotional issue with many people; however, I would remind my friends that we have but one God. If we would forget the

extraneous issues and allow everyone, everywhere, young and old alike, the privilege of prayer, the end result is bound to be beneficial.

Mr. Speaker, this is all this resolution does; no Government control; no wedding of church and state—but merely places our Government on record as favoring voluntary prayer, if sought. If we are to pass on to our children and generations yet unborn the legacy of our forefathers, we can do no less than to support the proposed constitutional amendment now before us. I plan to vote for it and strongly urge my colleagues to help pass this historic legislation.

Thank you.

Mr. HOGAN. Mr. Speaker, the place and value of prayer as the means to deeper fellowship with a Supreme Being is universally acknowledged.

However, today, as never before, that sense of fellowship, that wellspring of hope, that acknowledgement of dependence on a Supreme Being, are endangered by those who would lightly disregard the precious religious heritage and foundation of our American way of life. We have seen in recent years that prayer has been gradually pushed aside, ousted from its traditional place in our national life, and with it the influence of organized religion throughout our society has lessened and our national morality has been in rapid decline.

This is what motivated me to cosponsor this constitutional amendment and to sign the discharge petition which brings it to the floor today.

Allowing voluntary prayer in schools is only one aspect of the problem. There are efforts to eradicate all allusions to God from our public life—preventing astronauts from praying in outer space; eliminating the prayers which, since the Republic was founded, have opened sessions of the House and Senate; prohibiting prayers before sporting events at our stadium here in Washington; denying the use of the Sylvan Theater at the Washington Monument for Easter Sunrise services; eliminating the creche from the Christmas display at the Monument Grounds and from our public buildings; discontinuing the inclusion of chaplains from our military services; abolishing the invocation from our Presidential inaugurations; removing "In God We Trust" from our coins and from behind your chair in this Chamber, Mr. Speaker; and, eliminating references to God from our oaths. All of these are predictable extensions from the position of those who oppose this amendment.

Prayer is a vital part of that spirit which sustains our national life and always has been. Nevertheless, there are some who believe that adoption of the constitutional amendment which we are considering today would somehow break down the barriers between church and State. This is far from true.

I have always been a staunch advocate of the separation of church and State, and if I felt that the amendment before us today jeopardized this separation in any way, I would oppose it. But I believe that this amendment poses no such danger. It is obvious that it was not the intent of our Founding Fathers to prohibit prayer in our schools and other public buildings. "In God We Trust" has always been our guiding motto. All of the writings and debates of the Founding Fathers are imbued with a belief in God.

This amendment would merely allow students to join together in voluntary prayer. It would not require any child to participate nor could any school require participation.

A brief review of our Nation's history will demonstrate that until the Supreme Court decisions of the early 1960's public schoolchildren traditionally engaged in public prayer during the school day. As it stands now, public school students are not permitted to join together in organized prayer. They are denied that opportunity because of several U.S. Supreme Court interpretations of the Constitution's Establishment of Religion clause extending it to prohibit prayer in schools and by the extension of that.

In the 1962 Supreme Court case, *Engel* v. *Vitale*, 370 U.S. 421 (1962), the majority held that—

> State officials may not compose an official state prayer and require that it be recited in the public schools of the state at the beginning of each day—even if the prayer is denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited.

In his dissent in the Engel case, Mr. Justice Stewart noted that the Court could not hold that New York "interfered with the free exercise or anybody's religion," but he concluded that—

> to deny the wish of school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.

This is precisely the point which I would like to make in supporting this amendment before us today. Some opponents of House Joint Resolution 191 claim that this amendment would allow no more than what is presently condoned in public schools. This may be true in some areas of the country, but the fact remains that lower courts in most States have extended the Engel decision to the point where public schoolchildren are denied the right to pray. A New Jersey case illustrates my point. In that case students voluntarily gathered together in the morning hours before the start of the school day to read the remarks of the chaplains of the House or Senate from the CONGRESSIONAL RECORD. This student-run program interfered in no way with anyone's rights and it was not conducted during regular school hours. Nevertheless, these prayers were held to constitute an "establishment of religion," and in violation of the Establishment Clause of the first amendment. This was the result of the New Jersey Supreme Court's decision in *State Board of Education* v. *the Board of Education of Netcong*, 270 A. 2d 412 (1970). The U.S. Supreme Court denied certiorari in this case which is tantamount to affirmation.

Mr. Speaker, does it not seem incredible that we allow Judges, Senators, Congressmen and Presidents to join in prayer, but prohibit schoolchildren from doing so.

Is not it paradoxical and sad as well that the church leaders who have launched such a massive campaign against this proposed constitutional amendment to permit school prayer have not launched a similar attack on the pornography, drugs, and antireligious propaganda to which our children are subjected in our schools. Are they more opposed to prayer in school than they are to pornography in our schools? I intend to reject the lobbying of these misguided church leaders who do not speak for their flocks. They do not speak for my constituents, 71 percent of whom indicated their support for this amendment.

It is also paradoxical that some of these same churchmen who are expressing their concern over the effect this constitutional amendment would have on the separation of church and state see no such danger in giving Federal money to church-related schools and in fact some of them were here at the Capitol lobbying for it last week.

The discrepancies and the public confusion over this issue have made it necessary to offer the clarification which this proposed constitutional amendment intends. This is why I can not buy the argument of the opponents of this resolution that this amendment would alter the Bill of Rights for the first time in the Nation's history. Let us not forget that the very purpose of the constitutional amendment process is to clarify the basic fundamental rights as they wree conceived by our Founding Fathers so many years ago.

And, Mr. Speaker, it appears that no clarifying amendment would be more in line with the original intent of our Founding Fathers than this one. When the first amendment clause, "Congress shall make no law respecting an establishment of religion, was penned, I sincerely doubt that our constitutional writers anticipated that voluntary, nondenominational prayer would be barred from our public schools by the ruling of the highest court in our land.

Mr. Speaker, for 171 years public school children engaged in public prayer in schools. School prayer did not pose any threat at that time and it would not pose one now. In fact, Mr. Speaker, I would venture to say that some of the other practices currently condoned, or at least tolerated, in our public schools pose more of a threat than the voluntary prayer envisioned by this amendment.

I suspect that most Americans would agree that respect for others, respect for the law which defines our relationships to other, and respect for a Supreme Being, are all intermingled, and that they are in decline today.

I urge my colleagues to support House Joint Resolution 191.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in support of House Joint Resolution 191, to propose an amendment to the Constitution of the United States which will permit any group of persons, including our children in school, to participate in nondenominational prayer in public buildings.

When the U.S. Supreme Court handed down a 6-to-1 ruling on June 25, 1962, that the reading of a prescribed official prayer in New York public schools constituted "an establishment of religion" under the first amendment of the Con-

stitution, it became apparent that the case which led to that ruling was to be but the first of many assaults on our religious heritage. Shortly after the decision I joined a number of my colleagues in sponsoring a proposed constitutional amendment which would have permitted voluntary prayer by children in schools. The legislation was referred to the Committee on the Judiciary and was still awaiting committee action when a second Supreme Court ruling, on June 17, 1963, held that reading of the Bible and recitation of the Lord's Prayer in classrooms was unconstitutional.

Public outrage of gigantic proportions arose following the 1963 decision, and the original amendment which I and some of my colleagues had offered the previous year was expanded to include offering, reading from, or listening to prayers or biblical scriptures, as well as making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, institution, or place, or upon any coinage, currency, or obligation of the United States. By the end of the first session of the 88th Congress, 111 Members of the House had introduced resolutions substantially consistent with ours, but no action was taken by the Committee on the Judiciary until 167 House Members had signed a petition to discharge the committee from one that was cosponsored by 58 House Members and it appeared that a majority would sign the petition soon. Then, after 22 months of urging the chairman announced public hearings for the following April.

Hearings were held by the Committee on the Judiciary from April 22 through June 3, 1964. However, at the conclusion of the hearings no further action was taken by the committee and the 88th Congress adjourned without taking action on the school prayer issue.

On February 24, 1965, I filed a discharge petition in the House, and urged my House colleagues to join me in forcing the resolution to the floor for action. I called attention of my colleagues to a recent poll conducted by Lou Harris which indicated that well over two-thirds of our Nation's citizens would like their children to have the right to participate in prayers in public schools on a voluntary basis. I said:

I have supreme faith in the American people to determine what they feel is correct for them and what is incorrect. The amendment process is the most democratic procedure to see that they are no longer thwarted in the exercise of this prerogative.

I expressed regret then, as I do now, at having to resort to a discharge petition as a means to permit the House of Representatives and the American people to determine what is best for them. But after 11 years there can be no question that the Committee on the Judiciary does not intend to act on the school prayer question no matter how many Members of this House or how many of the American people want them to do so. Clearly it is now time for Congress to act, to adopt the proposed amendment which will prevent the complete removal of all signs of religion from our national life.

Opponents of the proposed amendment cite historical material attempting to prove that the founders of our country intended to erect a barrier between the church and state to keep the two forever separate and apart. But as Mr. Justice Stewart noted in his dissenting opinion in the 1962 case:

What is relevant to the issue here is not the history of an established church in sixteenth century England or in eighteenth century American, but the history of the religious traditions of our people, reflected in countless practices of the institutions and officials of our government.

He wrote:

At the opening of each day's Session of this Court we stand, while one of our officials invokes the protection of God. Since the days of John Marshall our Crier has said, "God save the United States and this Honorable Court." Both the Senate and House of Representatives open their daily Sessions with prayer. Each of our Presidents, from George Washington to John F. Kennedy, has upon assuming his Office asked the protection and help of God.

I am convinced that ratification of the amendment we are considering today will not in any way diminish the prohibition in the first amendment to establishing an official religion. I am also convinced that it will recognize and continue for our children and theirs the spiritual traditions which made this the greatest Nation on earth. When under rather intensive questioning during the 1964 hearings I said I was willing to take a chance on what it would do, the committee chairman chided me, and a member of his committee responded as follows:

Mr. Chairman, before Mr. Broyhill goes, I would just like to make an observation. The chairman somewhat chided you for your statement that you would take a chance. If I remember correctly, one of the Founding Fathers referred to the Constitution itself as a noble experiment. So they took a chance, and I think you are not in bad company.

I have received a massive number of letters on the proposed amendment. I have been impressed by the strong feelings expressed on both sides of the question. Many valid points have been made, especially by spokesmen for organized religion, about the difficulty of defining a nondenominational prayer as well as about guarantees of separation of church and state. But perhaps the most convincing arguments of all are those I have received from teachers who have lived through the decade since the Supreme Court decisions. One teacher cites 15 years of public school teaching as convincing her that the denial of what in many cases was her pupils only exposure to the idea of a Supreme Being was far greater in consequence to the moral fiber of our country than the threat to religious freedom seen by the leaders of her church group. Another, who taught in schools in New York at the time of the 1962 decision, described the unbelievably rapid and almost total breakdown of discipline in the schools which began with the prayer decision and ended in the chaotic conditions existing in New York City schools today.

Mr. Speaker, in citing the first amendment, the opponents of this resolution quote—

Congress shall make no law respecting an establishment of religion.

But often fail to continue—

or prohibiting the free exercise thereof.

Our children need and deserve the right to learn this Nation's spiritual traditions if they are to understand how and why it is the greatest Nation on earth. To deny them the right to pray in the schools we insist they attend is unconscionable. House Joint Resolution 191 will restore to them that right, and I urge its adoption.

Mr. DON H. CLAUSEN. Mr. Speaker, two great themes are found throughout the entire history of the American people. The fact that they have been sustained has been the bulwark for the development of our great democracy.

The first of these themes is the strength of prayer to the individual and to society. Rare indeed is the individual who has never found in prayer a sense of solace in a time of trial, or a feeling of exhilaration from a time of spiritual growth, or an emotional stability in troubled times.

For some of us, prayer is an everyday part of our lives. For others, it is more irregular but equally important. For everyone, however, the blessings of prayer are essential and valuable.

The other great theme is the continuing, successful effort to insure religious liberty by erecting a solid wall between church and state.

The first colonists who settled on these shores did so in flight from oppressive established religions in the old world. So ingrained in the American consciousness was the need to separate religious exercises from the influence of Government that the Bill of Rights contains a clause that prohibits the Congress, without exception, from approving laws that would in any way restrict the free exercise of religion or sanction one religious group at the expense of any other.

Since the 1962 Supreme Court decision in Engel against Vitale, there has been much said regarding the loss of religious freedom and the loss of God in our institutions. In far too many cases the Supreme Courts' decision was taken to mean "all school prayer is unconstitutional," and all devotionals were taken out of the public schools. However, in reviewing the Court's action in this matter, I am convinced that it was not their intent to totally divorce God from temporal institutions or in any way lessen His importance in any aspect of our daily lives. But, regrettably, the results of the decision caused many to believe that God has no place in public buildings and schools, and school administrators were prohibiting all forms of devotion and prayer. In the midst of this, confusion and misunderstanding has reigned, and the victim has been religious excercise and freedom.

What I perceive as the main purpose of House Joint Resolution 191, was to clarify the rights of people to voluntarily participate in prayer in public institutions. At the same time, however, it became apparent that this clarifying amendment to the Constitution, might in the end, and in reality, serve as the instrument that would restrict our religious liberty.

The Supreme Court, in this widely misunderstood decision, ruled that State officials may not compose an official State prayer and require that it be recited. This decision was a reaffirmation of the American tradition of religious liberty.

The Court did not, as many believe, support the view at the same time that the State could prevent prayers in school. Today, with the addition of the Buchanan amendment to the proposed constitutional amendment regarding prayer in public buildings, the Congress can clarify the Supreme Court's position by making certain that voluntary prayer and meditation can be conducted in our schools.

It is clear now that the prayer amendment, as originally drafted with the language "nondenominational", could have permitted governmentally prescribed prayers to be used in our schools. I would have had to oppose that legislation to insure that the writing or sanctioning of officially prescribed prayers would not become a reality.

However, the Buchanan amendment provides the solution to the question in its emphasis on the individual in providing him the opportunity, if he wishes it, to enjoy religious participation in public buildings. I can and shall support the the constitutional amendment with the provision of the gentleman from Alabama permitting voluntary prayer and meditation.

To further express my views on this subject, Mr. Speaker, I shall close my remarks by quoting my own personal statement on religious liberty which I set forth shortly after first being elected to Congress:

I Believe in religious liberty, and hold that this God-given right is exercised at its best when there is separation between church and state.

I Believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights, and to rule in civil things; and that in this realm it is entitled to the respectful and willing obedience of all.

I Believe in the individual's natural and inalienable right to freedom of conscience: to worship or not to worship; to profess, to practice, and to promulgate his religious beliefs, or to change them according to his conscience or opinions, holding that these are the essence of religious liberty; but that in the exercise of this right, he should respect the equivalent right of others.

I Believe that all legislation and other governmental acts which unite church and state are subversive of human rights, potentially persecuting in character, and opposed to the best interests of church and state; and therefore, that it is not within the province of human government to enact such legislation or perform such acts.

I Believe it is our duty to use every lawful and honorable means to prevent the enactment of legislation which tends to unite church and state, and to oppose every movement toward such union, that all may enjoy the inestimable blessings of religious liberty.

I Believe that these liberties are embraced in the Golden Rule, which teaches that a man should do to others as he would have others do to him.

Mr. DORN. Mr. Speaker, one of the most inspiring pictures in existence is that of George Washington on his knees at Valley Forge. Benjamin Franklin's call for prayer at the Constitutional Convention in Philadelphia undoubtedly contributed to the final success of the Convention and the adoption of our Constitution. Abraham Lincoln and Robert E. Lee were often in prayer imploring divine guidance and "Thy will be done."

Dwight Eisenhower began his inaugural address with a prayer on the East Front of the Capitol.

Every single school I have visited this fall had prayer and Bible reading. Mr. Speaker, I believe in prayer. My father was an ordained Baptist minister who led in family worship. America today in these great crises needs to humble itself and ask for divine wisdom and understanding. We are indeed a "Nation Under God." "In God We Trust" is indelibly stamped into the soul, fiber and heart of America.

America was largely founded by men and women seeking a land where they might worship God in freedom and according to the dictates of the individual conscience. They came to escape persecution, the divine right of kings and the decrees of a church-controlled state. My own forebears left Germany because of religious persecution and came to the free world. America grew strong and free under the first amendment to the Constitution guaranteeing freedom of religion. Churches sprang up throughout our land free from local, State, or Federal Government domination and control. Religious institutions flourished.

Mr. Speaker, I now greatly fear that if this prayer amendment is adopted we could again see the stark specter of Government interference in religious worship. This is really an attempt to amend the Bill of Rights, so sacred to every American. We must not legislate out of emotionalism and hysteria. We must not experiment and tamper with the Bill of Rights, which has been the guardian of individual liberty and freedom of religion.

Mr. Speaker, I have campaigned for prayer in our public schools. I have introduced legislation to amend the Constitution, providing for prayer in our schools but today, after prayerful reflection, I now believe this is no time and this is no place to rewrite or amend the Bill of Rights. Should we now amend our Constitution calling for voluntary prayer, who will administer a voluntary prayer? Who will write a voluntary prayer? Who will set the stage, the time, and the occasion for voluntary prayer? Who could coerce children into voluntary prayer?

We may with this amendment be unwittingly inviting more Government or school board interference in the free exercise of religion. When we are dependent on a system for virtually every action it might become expedient to volunteer certain prescribed favors in return for the favors of the system.

When strongly urged to volunteer for a mission it may become easier to volunteer than to decline. A soldier may find it more convenient to volunteer than to face the consequences of refusing to volunteer.

As this debate reaches a climax it is difficult for me to find two attorneys or two ministers or two laymen who agree on what this amendment will do to the Bill of Rights; or what it would really means concerning prayer in our schools. Many are more confused by the debate than before it began.

Jesus Christ did not go to Rome seeking legislation and Roman decrees. Nor did He go to Pilate the Roman Governor asking for help to spread the Gospel. Had He done so the Christian movement would have then and there been tied to the whim, vacillation, and change of government. His movement would have collapsed with Rome. His Kingdom was founded on love and the worth and dignity of the individual and today millions worship at His feet.

The church will die if it depends on the cold arm of government to sustain it. It will die if it depends on legislation and constitutional amendments such as this one. The church will grow only so long as it is separated from government and wins the heart of the individual. The religious individual of any faith must not look to government to subsidize and bolster his religion. We need more religious men and women in government. We need less government in religion.

Render unto Caesar the things that are Caesar's and unto God the things that are God's.

Mr. RARICK. Mr. Speaker, fear has been repeatedly expressed that House Joint Resolution 191 amends the first amendment establishment prohibition and free exercise clause. The first amendment, under the original intent of the Founding Fathers, never applied to the States or the people until the U.S. Constitution was amended by the 14th amendment in 1865. And not then until 100 years later when the Supreme Court decided that the 14th amendment extended the first amendment as a prohibition to the States.

The prayer amendment we are considering today does not amend the first amendment. To the contrary, it strengthens and clarifies the first amendment and limits judicial extension of the 14th amendment by telling our good friends on the Federal bench that the first amendment means what it says:

Congress shall make no law . . . or prohibiting the free exercise thereof.

This House Joint Resolution 191 does by providing that nothing in the Constitution shall abridge the right of persons to participate in voluntary prayer.

The first amendment is unaffected. If it were otherwise, I would oppose House Joint Resolution 191. It is the judicial interpretation by court expansionism of the 14th amendment that will be affected by adoption of House Joint Resolution 191.

When all the smoke, the countercharges, and the hysteria of the moment have subsided, there is but one issue before us. Are children to be allowed to participate in voluntary prayer in public schools? A vote for the amendment is for voluntary prayer in schools. A negative vote is a vote to continue the officious intermeddling of the Federal court in the freedom of prayer in school.

The American people find it unbelievable that the Federal judges have ruled that Communists can work in defense plants. They find it equally incredible that we Members of this body permit the same Federal judges to curtail prayer for our children in school.

I am satisfied that Mr. BUCHANAN'S amendment to substitute the word "voluntary" for "nondenominational" strengthens the intent as well as the thrust of the prayer amendment. I support it enthusiastically and intend to cast my people's vote in favor of the bill as amended.

Mr. RANDALL. Mr. Speaker, I rise in support of House Joint Resolution 191 confirming that I was one of the 218 Members who signed the discharge petition which made it possible to bring this resolution to the floor of the House. On a rollcall vote earlier this afternoon, I voted to discharge the Judiciary Committee from further consideration of this resolution. I intend to vote for the resolution as amended on final passage.

It is worthwhile to recall that this resolution was introduced way back on January 22, 1971. Just like it happened before the Judiciary Committee omitted, neglected, failed, and even refused to hold hearings. Little by little, the discharge petition filed by our good friend, the gentleman from Ohio (Mr. WYLIE) gained momentum until finally it reached the summit of success when it had the necessary 218 signatures. Today every Member will have the right to be for or against prayer in our public schools. It is a day some of us have long awaited.

In anticipation of this vote today, I asked my staff to go through our old files all the way back to correspondence we received following the Engle against Vitale decision in 1962. I was privileged and quite proud to join in the Becker discharge petition about 7 years ago which, as some may recall, forced the commencement of hearings before the House Judiciary Committee in 1964. Because of this debate, I took the time to review our replies to the correspondence from our constituents in the summer and fall of 1964. At that time I stated:

> It is my opinion such a resolution affirms our principles without lessening the Constitutional freedom guaranteed to us in the First Amendment.

What was true then is equally true today.

Who can forget the words of Mr. Justice Stewart who wrote the dissenting opinion in Engel against Vitale? He could not be persuaded that prayer in our schools violated the establishment clause in the Constitution. Mr. Speaker, every single thought expressed by Justice Stewart in 1962 has just as much truth and application to House Joint Resolution 191 as it did when he wrote his dissenting opinion in June of 1962. At that time, Justice Stewart said:

> I think the court has misapplied a great Constitutional principle. I cannot see how "official religion" is established by letting those who want to say a prayer say it. On the contrary, I think to deny the wish of those school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation.

Mr. Justice Stewart went on to point out that each day's session of the U.S. Supreme Court was opened since the days of John Marshall by the court crier who steps forward to say:

> God save the United States and this Honorable Court.

At every inauguration of every President of the United States, the new President, upon assuming his office, has asked the protection and help of God. Both the Senate and House of Representatives open their daily sessions with prayer. Referring once again to the dissenting opinion of Mr. Justice Stewart, he summed up the religious traditions of the people of our Nation as reflected in the countless practices of our institutions and the officials of our Government in quoting a single sentence from Zorach against Clawson, a U.S. Supreme Court case which was decided in 1952, as follows:

> We are a religious people whose institutions presuppose a Supreme Being.

At the expense of being repetitive, just about all of the things that were said in the debate on the Becker amendment which led to the Judiciary Committee hearings in 1964, and the thoughts expressed by Mr. Justice Stewart in his famous dissent in the case of Engle against Vitale in 1962 are every bit as true and every bit as applicable to the debate today as they were 9 years ago and 7 years ago, respectively.

Mr. Speaker, it has been suggested that most of the polls show that between 92 to 94 percent of the people in this country favor the principle of voluntary prayer in our public schools. But that popularity, taken alone is not a sufficient reason to support this resolution. It has also been pointed out that for one to oppose this resolution is to be put upon the defensive which will require endless explanations for those who voted against this resolution. Once again such is not a sufficient reason, taken alone, to support this resolution.

My reason for supporting House Joint Resolution 191 is not because I think it is the popular course to take. Our mail has been mostly in opposition to this resolution. My support for this prayer amendment is for the same reason as my support of the Becker amendment years ago. I signed this discharge petition as a way to force this matter to an issue today, because I believe we should restore the right of our young Americans to participate in individual voluntary prayer in our public schools. I support this resolution, moreover, because I believe the vast majority of Americans want to preserve the unimpaired right for their children to engage in prayer to a Supreme Being.

Now, Mr. Speaker, I think we all agree that the Government should never become the administrator of any particular religious practice. I believe that it is imperative that we keep church and state separate if we are to maintain our religious freedom. But who can convincingly argue that House Joint Resolution 191 jeopardizes the historical separation of church and state as some have alleged? If there ever was any difficulty or problem in the minds of those Members who found it difficult to define nondenominational prayer, they have been relieved of that problem upon the adoption of the amendment offered by the gentleman from Alabama, by striking the word, "nondenominational" and inserting in its place the word "voluntary" and after the word "prayer" adding the words "or meditation."

The time has certainly come for the confusion created by the case of Engle against Vitale to be cleared up. In Stein against Oshinsky the Court had a public opportunity to clarify the entire question but failed to do so. You remember the prayer involved in the Stein case—

> Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing, thank you, God, for everything.

How, oh how, can a prayer of that kind in any way affect the historical separation of church and state as some would have us believe? This resolution today is a reasonable way to decide this matter once and for all. Surely the Constitution provides freedom "of" religion, not freedom "from" religion. If we continue to forbid our little children to say voluntary prayers in school, then certainly they are being denied, as Mr. Justice Stewart emphasized 9 years ago—

> the opportunity of sharing in the spiritual heritage of our nation.

Oh some few may have experienced some difficulty in the definition of the word "nondenomination." I know that leaders, some of the leaders in my own church—the Methodist Church—have mentioned some of the difficulties involved notwithstanding it is clear to me that the advantages of this proposed constitutional amendment far outweighs the disadvantages.

I intend to support this resolution leading to the prayer amendment because I am convinced this is a nation under God. On our coinage we have "In God We Trust." In the Pledge of Allegiance to the Flag we have the words, "Under God." Every day both bodies of the Congress are opened with prayer.

Of course I shall be disappointed but not greatly surprised if this amendment does not receive the required two-thirds vote. If that happens, it will be because the religious groups in this country are divided over this amendment. But I hope that none of those who oppose this resolution will take comfort or joy if their views in opposition prevail. Our Nation would have been much better if some of the Supreme Court cases which denied prayer in our schools had never been decided. But we can never undo those decisions except by action like we are attempting today.

As we near the end of this long struggle to submit an amendment to the Constitution, I am sure many Members are wondering where, oh where are those thousands of letters in support for such an amendment that we all received back in the days of the Becker discharge petition? We should know in our own hearts and minds that our country has not lost interest in prayer simply because the volume of correspondence which we receive is lower than in former

years. Maybe some of those persons have reached the conclusion that the task to restore prayer to our schools maybe insurmountable until such time as the Supreme Court can be changed.

For those who oppose this amendment, let it be noted that by proposing this amendment we are only making it possible for the States to decide this issue one way or the other. That means that any action today will have to be followed by the process of ratification. Then it will really be the people who decide whether this amendment to the Constitution shall be ratified or rejected.

Mr. Speaker, it was my privilege within the last few days to have been handed a copy of a telegram from Billy Graham to the gentleman from Ohio (Mr. WYLIE) the author of House Joint Resolution 191. Billy Graham in that telegram said,

> Our greatest danger lies in the direction that secularism and atheism may become the unofficial religion of America.

As to House Joint Resolution 191, he went on to say—

> I see no danger in the amendment. . . . If I were a Congressman, I would vote for it. I believe the overwhelming majority of the American people want prayer in the schools.

As a final thought in the telegram to Mr. WYLIE, Billy Graham closed by saying—

> It is interesting to me that when we took prayer out of the schools, sex, permissiveness, rebellion, drugs and even crime came in.

As my own conclusion to these remarks on this prayer amendment, let me say that whatever the outcome of this vote, we should all be thankful that each of us can say to ourselves a silent prayer, that ultimately may God's will will be done.

Mr. VEYSEY. Mr. Speaker, we have heard Member after Member today state, quite correctly, that the first amendment of the Constitution provides—

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

And Congress has made no such law. But Government, in another way, has prohibited the free exercise of religion. The Supreme Court in at least two decisions followed by a number of ill-advised inferior court decisions has created an atmosphere in which all prayer and all exercises which touch on the religious have become taboo in our schools and in other public places.

The amendment before us strikes at this confusion, which is not the doing of the Congress but rather of the courts. It detracts in no way from the right of any individual in his practice of his religion or in his right not to practice any religion. Prior to 1962, in the 171 years of this Nation, there was no problem in this area. Now it appears essential that Congress act to protect the individual's right to his own religious views and practices. The proposed constitutional amendment, as amended, says:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds to participate in voluntary prayer or mediation.

Perhaps the amendment could be stated more succinctly; perhaps it could be stated more elegantly. But its import is unmistakable. By its adoption in this Congress this resolution says:

> Let the people express their view on the matter. If three-fourths of the states approve, it will become part of the Constitution.

It says further:

> The people believe that the right to voluntary prayer should not be banned by the courts, by the Congress, or by the Constitution.

I support House Joint Resolution 191 and urge its passage to make clear that the Congress is not and has not been in the position of interfering between the individual and his duty.

Mr. RIEGLE. Mr. Speaker, I strongly believe in the power of prayer and the value and appropriateness of religious and spiritual practice.

It is significant that the very first amendment to the U.S. Constitution expressly guarantees both the free exercise of religious practice and an express prohibition against the Congress ever making laws that would establish any State-sponsored religious practice.

This constitutional provision was wisely written and has served the country well. Perhaps more than any other factor, it has preserved and protected the broad and rich diversity of religious practice throughout our society.

All manners and forms of free religious expression are constitutionally protected—just as the freedom to choose no religion is similarly protected.

In my district today, dozens of different churches and religions flourish. None are allowed to trespass against the others, nor can they be trespassed against. We have enoromus religious diversity in our community and I believe this is a source of great strength—for our own area and for the country.

We also have, in our district, thriving and healthy private schools which provide various kinds of religious instruction. They, too, are a source of strength and good to our community.

It is altogether proper that we should find these things to be so. For our country was founded to provide freedom for those who had suffered religious persecution in other lands. It was the hope and dream of our forefathers that we could establish a society where religious practice—the freedom to worship and pray—would be absolutely protected as a personal right. And the government, at all levels, would be expressly forbidden to intrude on this precious individual right.

Thus, each one of us, as free citizens of America, can choose our own form and manner of religious belief and activity. We are free to pray to our own God in our own way—and we are free from having other gods imposed upon us. This is a precious and pure individual right which the Government must never disturb.

I personally believe in God. Yet, I know other Americans whose God is different than mine. I practice my beliefs in my way—others practice their beliefs in their way. I will not surrender my religious freedom to the State—now or ever. And I resist, with every ounce of strength I have, if any of my fellow citizens are likewise pressured to surrender their religious freedom, however different their religious practices may be from mine.

This then brings us to the present moment where we face a momentous question. It is one that is fundamental to the very heart and soul of the American Constitution.

It is not a question of whether prayer can take place in schools, because the first amendment to the Constitution expressly protects the personal free exercise of religion in schools and every other place. Any individual student who wishes to pray in school—or elsewhere—is free to do so as long as his actions do not infringe on the rights of others. As individuals, we are free today to pray in our schools. I know because I did so myself only this week at Powers High School in Flint. Before being introduced to speak at a school assembly, I engaged in a moment of private prayer. I do not relate this fact to draw attention to my own beliefs, but rather to show that we can, and do, pray in our schools now. And this freedom will continue as long as the first amendment to the Constitution is left undisturbed.

The "prayer amendment" now before the House is well intentioned. And while I disagree with the constitutional amendment process the proponents of this legislation have chosen, I deeply respect their right to offer it for consideration. That is why I voted to discharge this amendment from the Judiciary Committee—so that it could be considered and resolved by the House of Representatives itself. And I will resist any other attempts to "bottle up" consideration of the matter. It is an important matter and it deserves careful consideration.

The basic purpose of the Amendment's sponsors, I believe, is to stimulate a spiritual and moral resurgence in our country. I can support that goal, but I am deeply troubled about the means they are suggesting. For what they seek to do is prescribe a prayer that would become group practice in our public educational institutions.

Our first question must be, What prayer? Who will write it? Exactly what will it say? What wording can be devised that will suit Protestants, Catholics, Jews, Buddhists, Moslems, agnostics, and others? And what of those who practice a personal set of moral values somewhat different than any established sect?

If such a prayer can be devised, what is the student to do who finds that his own private beliefs, or those of his parents, are different than the group prayer? Is that student required to leave the room? Will that student later be given time to recite his prayer aloud if he so wishes?

These are not easy and simple questions. In fact, they are impossible questions and, however unwittingly, they do violence to the religious freedoms guaranteed in the first amendment.

And I must raise another matter of grave concern to me. If we are to sponsor group prayer in our schools, what level of government is to be given the authority to regulate this new Government-sponsored religious practice?

Is the Federal Government to be given this power? Are the States? Will local school boards undertake to prescribe the exact nature of this religious practice?

Well I for one hope—and, yes pray—that no level of government in this country will ever be given any authority whatsoever to intrude in the religious life of our country.

No governmental bureaucrat, no matter how well-intentioned, should ever intrude upon the freedom of religious practice in these United States—a freedom that so many have fought and died to preserve these last 196 years.

In Communist China today we find a system where a brand of state authorized "religion"—if we may call it that—is practiced in the schools. Each student is given a book called the teachings of Chairman Mao, and these ideas are forced into each child. Some might say that this can never happen in the United States. I fervently hope that kind of thing never happens in America. But if we put the foot of government in the door today, with this innocent appearing prayer amendment, what will happen next? If, in some future election in the United States, the victor were to insist that his views be incorporated in school prayers, what protection would we have?

We do need in America a moral resurgence—and an important part of it can come from our various religious faiths and institutions. So let us protect and defend their diversity and freedom. Let us encourage our people to search their souls on the great moral and spiritual questions and then act according to their own individual conscience.

In times as troubled as these, I believe we can find greater understanding, tolerance, and brotherhood in our diverse religious institutions across America. But I fear that if we move the church into the public classroom, in the form of a nondenominational prayer, we undercut the great strength of our religious institutions—the separate and different denominations—each strong and beautiful in its own right.

So today I must vote to protect our religious freedom and religious diversity in America. I must vote to keep the bureaucratic hand of government out of the spirtual practice and religious activity in our country. I must vote to protect the right of each student to freely engage in his or her own private voluntary prayer—without interference or hinderance of any kind.

I do this because of my love for our religious freedom. I do so because the first amendment of the Constitution is an absolute guarantee of religious freedom—and it must be protected. And I do so after long and prayerful thought.

Mr. MAYNE. Mr. Speaker, the Bill of Rights has protected basic American freedoms for 180 years. The first of those freedoms guaranteed in the first 10 words of the first amendment is freedom from any government establishment of religion. Our Founding Fathers wisely determined to separate church from state absolutely and to permit no governmental dictation, guidance or even suggestion in the field of religion which of course includes prayer.

The proposed constitutional amendment on which we vote today would qualify and becloud the protections of the first amendment which has served us well since the founding of this Republic. Can any one doubt that constitutional sanction of so-called nondenominational prayer would lead to governmental determination of which prayer was proper and which was not? This is the very danger which the framers of the Bill of Rights warned against, and labored to avoid. The terrible prosecutions of religion by government which afflicted Europe in the 17th and 18th centuries were still very fresh in their minds.

Mr. Speaker, it is perhaps understandable that with so much additional lapse of time, we become less mindful of the lessons of history, and forget how many of our ancestors have come to these shores fleeing such persecution. It is not also obvious that if we start tinkering with the very first 10 words of the Bill of Rights today, those who disagree with others of its safeguards will be encouraged to offer similar amendments, which could well lead to a general erosion of this basic document of freedom?

Mr. Speaker, I say let us remember the wise counsel of Madison and Jefferson and stand by the Bill of Rights. Let us vote down this well intentioned but dangerous amendment.

Let us be especially mindful of the following words of Thomas Jefferson in the concluding paragraph of his great Virginia statute for establishing religious freedom:

> And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore, to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right.

Our forefathers insisted upon adoption of the first amendment to the Constitution because they knew the lessons of history. They were well aware of the experience of the bitter English civil wars of the 1640's, when the central issue was religion. At that time in England church and state were virtually indistinguishable, and religion was inextricably involved in government. The King and the Episcopal nobility and gentry were determined that all worship should be in their pattern, while Parliament and the Roundhead gentry and merchants were equally dogmatic and intolerant.

A third concept was thrust into this conflict by profoundly religious but intensely independent Puritans who advocated complete toleration and who opposed any establishment of religion. They believed in gathered churches in which each congregation freely chose its own manner of worship and its own minister. They maintained that only by creating a wall separating church and state could each be strong and secure. They believed in God-given, inalienable rights, among them freedom of conscience.

Unable to find religious freedom in England, many of them left and came to the New World. A century or so later, their descendants in establishing a government of their own insisted that the complete separation of church and state be guaranteed as the very first item in the Bill of Rights.

These first 10 amendments to the Federal Constitution have been our greatest heritage since 1791. As Erwin N. Griswold, the dean of Harvard Law School, stated in a letter to House Judiciary Committee Chairman CELLER during the 1964 hearings on proposals for a prayer amendment, in a reference to the Bill of Rights:

> Despite changes and developments in interpretation, they can be said, I think, to be the center and core of our governmental system, the most distinctively American contribution to the art and science of self-government. Here, in a relatively few words, are the basic propositions of good government in a free society. These have come to us from our fathers. They have been preserved through times of stress and peril. In a very real sense, our generation are trustees of these provisions, for generations yet to come.

In continuing his argument against any amendments to the Bill of Rights, Dean Griswold said:

> In a very real sense, too, the greatest safeguard against the eventual loss or frittering away of these precious guarantees of individual liberty is to keep them as they are. If we start to tinker with them, and to amend them here, and amend them there, we will soon find good reasons for restricting this liberty, or narrowing that safeguard, and will eventually wake up to find we have lost the essential safeguards which these amendments can and should protect. Once amendments are adopted to any part of the Bill of Rights, the floodgates may be opened. At the very best, we will have lost the great force of the Bill of Rights provisions, now expressed in simple, general terms. At the worst, once we start down the road to constitutional amendment in this area, we may lose most of the substance of protections which are now ours through the first 10 amendments.

House Joint Resolution 191 would amend the Constitution by adding the following article:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

I have no doubts regarding the great sincerity of the many proponents of this proposed amendment.

Genuinely concerned about what they view as increasing secularism in our public schools and institutions, they believe this trend is at least partly responsible for the crime, violence, and other frictions within our society that trouble us all. They are also convinced that the decisions of the Supreme Court are primarily responsible for this secularism and for removing prayer and the Bible from our public schools.

They fear future Supreme Court decisions which may delete any mention of God or of religion in our Pledge of Allegiance, anthems, oaths of office, cur-

rency or Great Seal and end any and all religious observances in or on public, tax-supported properties, eliminate the chaplains of the prisons, hospitals, the armed services, and the Congress. They contend that House Joint Resolution 191 would only restore the status quo as it existed before the Supreme Court decisions, and restore the first amendment as originally drafted.

These beliefs and convictions are understandable when we consider the considerable misinformation regarding the Supreme Court decisions that was generated and widely publicized in tracts in the early 1960's.

Among these are *Engel* v. *Vitale* (370 U.S. 421), handed down on June 25, 1962, and *Abingdon School District* v. *Schempp* (374 U.S. 203) decided June 17, 1963. In the Engel case, the court held the establishment clause of the first amendment forbids a State to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on a program of governmentally sponsored religious activity in its public school system. The prayer at issue, composed by the New York State Board of Regents, said:

Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country.

Upon the recommendation of the New York State Board of Regents, a local school board had directed that the prayer be recited aloud at the opening of every school day.

The majority opinion by Mr. Justice Black stated:

The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office. Under that Amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it state or federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity.

There can be no doubt that New York's state prayer program officially establishes the religious beliefs embodied in the Regent's prayer. The respondents' argument to the contrary, which is largely based upon the contention that the Regent's prayer is "non-denominational" and the fact that the program, as modified and approved by state courts, does not require all pupils to recite the prayer but permits those who wish to do so to remain silent or be excused from the room, ignores the essential nature of the program's constitutional defects. Neither the fact that the prayer may be denominationally neutral, nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment Clause, as it might from the Free Exercise Clause, of the First Amendment, both of which are operative against the States by virtue of the Fourteenth Amendment . . .

The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce non-observing individuals or not. This is not to say, of course, that laws officially prescribing a particular form of religion do not involve coercion of such individuals. When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain. But the purposes underlying the Establishment Clause go much further than that. Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion. The history of governmentally established religion . . . showed that whenever government had allied with one particular form of religion, the inevitable result had been that it incurred the hatred, disrespect and even contempt of those who held contrary beliefs. That same history showed that many people had lost their respect for any religion that had relied upon the support of government to spread its faith. The Establishment Clause thus stands as one expression of principle on the part of the Founders of our Constitution that religion is too personal, to sacred, too holy, to permit its "unhallowed perversion by a civil magistrate."

Engel v. *Vitale*, 370 U.S. 421, 432; this last quote by Justice Black was from "Memorial and Remonstrance against Religious Assessments," II Writings of Madison, at 187.

Justice Black then again cited Madison's writings in stating:

Another purpose of the Establishment Clause rested upon an awareness of the historical fact that governmentally established religions and religious persecutions go hand in hand . . . It was in large part to get completely away from this sort of systematic religious persecution that the Founders brought into being our Nation, our Constitution, and our Bill of Rights with its prohibition against any governmental establishment of religion. The New York laws officially prescribing the Regent's prayer are inconsistent with both the purposes of the Establishment Clause and with the Establishment Clause itself.

Mr. Justice Black then rebutted the argument that applying the Constitution in such a way as to prohibit State law respecting an establishment of religious services in public schools indicates hostility toward religion or toward prayer. He pointed out that—

Men left the cross-currents of officially established state religions and religious persecution in Europe and came to this country filled with the hope that they could find a place in which they could pray when they pleased to the God of their faith in the language they chose.

The Justice gave as an example Roger Williams, one of the earliest exponents of the doctrine of separation of church and State. He pointed out that Williams believed separation was necessary in order to protect the church from the danger of destruction which he thought inevitably flowed from control by even the best-intentioned civil authorities, and that Williams thought it was no part of the business or competence of a civil magistrate to interfere in religious matters. Justice Black pointed out that—

"It was such men of this same faith in the power of prayer" who led the fight for adoption of our Constitution and of the Bill of Rights; and that "these men knew that the First Amendment, which tried to put an end to governmental control of religion and of prayer, was not written to destroy either," but that it was written "to quiet well-justified fears which nearly all felt arising out of an awareness that governments of the past had shackled men's tongues to make them speak only the religious thoughts that government wanted them to speak and to pray only to the God that government wanted them to pray to. It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those people choose to look to for religious guidance. (*Engel* v. *Vitale*, at 421)

At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parent or guardian.

In the Abington Senior High School, the Bible reading or reading of Jewish Holy Scriptures was followed in the daily opening exercises by unison recitation of the Lord's Prayer. The Supreme Court held that both the exercise and the law requiring them violated the establishment clause of the first amendment. The majority opinion by Mr. Justice Clark reemphasized the first amendment's requirement that the Government maintain strict neutrality, quoting Judge Alphonzo Taft—Superior Court of Cincinnati, February 1879—unreported opinion published in "The Bible in the Common Schools," Cincinnati: Robert Clarke & Co., 1870—who stated the ideal of the American people as to religious freedom is one of "absolute equality before the law of all religious opinions and sects, the government is neutral, and while protecting all, it prefers none, and it disparages none."

Justice Clark stated:

The wholesome "neutrality" of which this Court's cases speak thus stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenents of one or all orthodoxies. This the Establishment Clause prohibits. And a further reason for neutrality is found in the Free Exercise clause, which recognizes the value of religious training, teaching and observance and, more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the state.

Justice Clark rejected the argument that unless religious exercises are permitted a "religion of secularism" is established in the schools. He agreed that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe."—*Zorach* v. *Clauson*, 343 U.S. at 314. He found that the religious exercises in the Schempp and Curlett cases were required by the State and thus violated "the command of the first amendment that the Government maintain

strict neutrality, neither aiding nor opposing religion."

Justice Clark also rejected the argument that the Court's concept of neutrality, which prohibited a State from requiring a religious "exercise even with the consent of the majority of those affected, collides with the majority's right to free exercise of religion. While the free exercise clause clearly prohibits the use of State action to deny the rights of free exercise to anyone, it has never meant that a majority could use the machinery of the State to practice its beliefs.

Neither the Vitale nor Schempp case forbids any reference to God or religion in our schools or public institutions as some proponents of the prayer amendment now claim. In Vitale, the majority opinion states the first amendment requires that "each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance," and adds this footnote:

There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life or belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored this instance. (*Engel* v. *Vitale*, 370 U.S. 421, 435 n. 21.)

The majority opinion in the Schempp case reinforced this view by stating:

It is true that religion has been closely identified with our history and government. As we said in *Engel* v. *Vitale*, 370 U.S. 421, 434 (1962).

"The history of men is inseparable from the history of religion. And . . . since the beginning of that history many people have devoutly believed that 'More things are wrought by prayer than this world dreams of.'"

In *Zorach* v. *Clausen* (343 U.S. 306, 313 (1952), we gave specific recognition to the proposition that:

(W)e are a religious people whose institutions presuppose a Supreme Being. . . . (Schempp, at 212.)

The fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself. This background is evidenced today in our public life through the continuance in our oaths of office from the Presidency to the Alderman of the final supplication "So help me God." Likewise each House of the Congress provides through its Chaplain an opening prayer, and the sessions of this Court are declared open by the crier in a short ceremony, the final phrase of which invokes the grace of God. Again, there are such manifestations in our military forces, where those of our citizens who are under the restrictions of military service wish to engage in voluntary worship . . . It can be truly said, therefore, that today, as in the beginning, our national life reflects a religious people who, in the words of Madison, are "earnestly praying, as . . . duty bound, that the Supreme Lawgiver of the Universe . . . guide them into every measure which may be worthy of his . . . choosing. . . ." Memorial and Remonstrance Against Religious Assessments, quoted in *Everson* v. *Board of Education*, 330 U.S. 1, 71–72 (1947). (Appendix to dissenting opinion of Rutledge, J.) (*Schempp*, at 213.)

The Schempp decision makes clear at page 225 that it in no sense has the effect of establishing a "religion of secularism" as follows:

In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as a part of a secular program of education, may not be effected consistent with the First Amendment.

However, the proponents of the prayer amendment seemingly give much less weight to the majority opinions than to the concurring opinions of Mr. Justice Douglas in the Vitale and Schempp cases. Apparently their reaction to his reasoning and their fear that his rationale might at some time be shared by the majority of the Court have provided the impetus for their drive to amend the Bill of Rights.

It is true that in his concurring opinion in *Engel* v. *Vitale* (370 U.S. 432), Mr. Justice Douglas alone expressed the view that any financing by the government at any level of a religious exercise would be an unconstitutional undertaking. He questioned the constitutionality of: chaplains for the armed services and for the Congress; religious services at Federal hospitals and prisons; compulsory chapel at the service academies; use of the Bible in administering oaths; issuance of religious proclamations by the President; veterans using the "G.I." educational assistance at denominational schools; providing school lunch benefits to students at private schools; providing Federal assistance for nonpublic hospitals; use of the slogan "In God We Trust" on currency; placing the words "under God" in the Pledge of Allegiance; tax exemptions and postal privileges for religious organizations; income tax and gift-estate tax deductions for contributions to religious organizations; opening the Supreme Court with the Marshall's utterance "God save the United States and this honorable court"; and community purchases of Christmas trees or decorations with tax moneys. Justice Douglas indicated his belief that each of these would be unconstitutional.

However, there has been no indication that any of the other Justices share these views of Mr. Justice Douglas. The Court's decisions since these two landmark decisions have not justified any fear that Justice Douglas' absolutist views may become the views of the majority of the Court. In fact, on November 23, 1964, the Court denied certiorari in the case of Lewis against Allen, thus leaving standing a New York Court of Appeals decision upholding a State requirement that public schools conduct ceremonies using the Pledge of Allegiance. (14 N.Y. 2d 867.)

All that the Court barred in *Engel* v. *Vitale* (370 U.S. 421) was State action to compose and prescribe a prayer to be recited daily at the opening of its public schools. *Abington School District* v. *Schempp* (374 U.S. 203) forbids a State or city to require the Bible to be read and the Lord's Prayer to be recited each day at the opening of its public schools.

It is Mr. Justice Douglas alone who has challenged the longstanding manifest actions in our public life of belief in God. The majority opinions and other concurring opinions in Vitale and Schempp and the decisions in subsequent cases disclaim any such challenge.

The Court majority has not prohibited voluntary praying by children in public schools "as the spirit moves them." There is no prohibition against teachers teaching this Nation's rich religious heritage, no prohibition against the Bible being used in connection with studies of history or literature, or of religious art being studied in art classes or religious music being sung or played in music classes. "God" has not been removed from our schools and other public institutions.

It is thus clear that the proposed amendment can be justified only on the questionable basis that it is essential to individual liberties and in the national interest to allow the State to prescribe and control religious exercises in the public schools, despite the prohibitions of the first amendment.

The historic neutrality of government toward religion stated in the "no establishment-free exercise" clauses of the first amendment have kept our national public life free from sectarian controversy. It has permitted the fullest latitude for the voluntary progression and practice of religious freedom. The proposed amendment's enactment might well mark the end of a period of relative religious peace, and signal a scramble for State approval by the various religious denominations, creating dissension and generating controversy.

Furthermore, the proposed amendment, if held to nullify the results of Vitale and Schempp, would seriously abridge the constitutional "free exercise" of religion, a fundamental personal right implicit in the concept of ordered liberty, civic equality, and personal dignity, and essential to our pluralistic and democratic society.

Mr. Speaker, for all the reasons stated, I urge my colleagues to vote against this well-meaning but misguided and dangerous proposal for constitutional amendment.

Mr. GRIFFIN. Mr. Speaker, I have given prayerful consideration to the proposed amendment to our Constitution before the House today.

I believe in prayer. I believe there is power in prayer. I believe God in Heaven hears the prayers of people who pray sincerely.

Because of my strong belief in the power of prayer, I have attempted to approach this subject from the standpoints of law, logic, and reason, rather than from religious conviction alone.

I have given a great deal of thought to

the proposition of why, when, where, and how people pray.

The amendment reads:

Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

This amendment dictates when, where, and how people pray.

The maxim of law, "Expressio unius est exclusio alterius" applied to all statutory and constitutional law.

Simply stated it means—What is not authorized is prohibited.

Mr. Speaker, I have concluded that the amendment would limit prayers in public buildings to "nondenominational" prayers.

The amendment before us would authorize nondenominational prayer in public buildings. As it does not specifically authorize denominational prayer, under the maxim, denominational prayer would be prohibited, in my opinion.

How will this amendment work in our daily life? Let me give a few examples.

Now, your pastor can offer any type of prayer at your bedside while you are in a public hospital. If this amendment passes, your pastor probably could only offer a "nondenominational" prayer.

Religious services, including prayer, are held in many public buildings including school buildings, courthouses, gymnasiums, football stadiums. In predominantly Christian communities, would prayer in the name of Jesus be allowed? If Jesus is mentioned, it would be denominational prayer.

Now, prayers are offered at school assembly periods, commencement exercises, and other functions meeting in school buildings. This amendment would prohibit any prayer which mentions God, Christ, Jehovah, or Mohammed. To do so would make it denominational.

On many college campuses there are religious organizations such as the Baptist Student Union, the Elder Statesmen, the Wesley Foundation, YMCA, and YWCA, all dedicated to the purpose of promoting Christian fellowship, implementing a spiritual ministry, and being a living witness to Christ as Lord. Prayer is a vital part of the life of these spiritual missions. If this amendment passes, they can only offer a rote, routine, meaningless composition of words on campus because it is publicly owned. There is no restriction now on their religious group meetings.

Denomination is defined in Webster's Abridged as "a religious organization uniting in a single legal and administrative body a number of local congregations."

Nondenominational must be defined as "not having a denominational character."

Since denominational characterizes a religious group, "nondenominational" would be without religion or a matter "nonreligious."

Prayer is usually defined as "a reverent petition made to a deity or other object of worship" and, thus, a religious act.

Therefore, in my opinion, there is no such thing as a nondenominational prayer. A group of words can be labeled "nondenominational." But, if it is "nondenominational," it is not prayer.

Why impose an alien, unknown, impersonal, nonreligious, meaningless prayer on anyone—much less school children?

Denominational prayer can be offered in school buildings now—as long as participation is voluntary. Teachers, because they are part of government, cannot compel attendance at prayer sessions, but parents can. This is as it should be.

What if the majority of a school board is composed of Black Muslims, and they write a "nondenominational" prayer which is forced on your child in school? Is that religious freedom? I think not.

Prayer is holy.

Prayer is sacred.

Prayer is personal.

A "nondenominational" prayer cannot meet these conditions.

The language in this proposal might well be called an "antireligious" constitutional amendment. It sanctions nonreligious prayer in schools and other public places. It prohibits sacred, holy, and personal prayer. It would negate our right to pray our own prayers.

Would the Supreme Court construe and extend the definition of public buildings to all publicly owned facilities? If so, the airways would come within the purview of the amendment. It would follow, then, that religious broadcasts over radio and television would be unconstitutional.

Would the Chaplain of the House of Representatives be prohibited from praying to God?

We obviously need a spiritual revival in America. We need more prayer. But the answer is not in a government-written prayer.

There should be more prayer in the home. There should be more church attendance by parents accompanying their children.

Prayer written and required by public officials should not be the substitute for prayer in the home and church.

America was settled by people seeking relief from government dictation and domination of religion. That relief is in the first amendment. We must maintain that heritage of religious freedom.

Because of the foregoing reasons, I must oppose this effort to tamper with freedom of religious thought and belief, because it authorizes the government to compel how, when and where people pray. I oppose House Joint Resolution 191, as introduced.

Mr. Speaker, one of the most illuminating editorials on this subject was in the October 28 issue of Capital Baptist. It follows:

LORD TEACH US TO PRAY

The disciples first made the request. Since then it has been the hunger of the man's soul that has cried out making the same request.

We have found prayer real because we have been a free people to offer our prayer to God in a manner that suits our need. That day is dangerously close to being gone in America.

There are those who are cutting away at that First Amendment of the Constitution that guarantees each of us religious freedom. It is being done in the context of wanting to make it possible for children to pray in the public school. Even after these many years they still will not hear correctly the decision of the Supreme Court. We will say it one more time—the Court ruled that it is not the proper function of government to tell people what to pray or even that they ought to pray.

Does it make sense to you for you to go to the local school board and say, "School Board, teach us now what we are to pray?"

The proposed amendment to the Constitution does just that. In most instances the local school boards will be the ones who will have to approve what children can pray and cannot pray. Did you ever think you would see that day in America?

Now take the process one step farther. School boards will, of course, turn to the so-called religious leaders in the community and say to them that they write the prayers—remember though that it has to be a nondenominational prayer. Will we not hold a religious census to see which denomination is to have the greatest influence writing the prayer. What if it turns out that the Black Muslims are the greatest in number and they determine that the prayers for all will be offered to their God? What will you do then? How would you like to see community after community across the land become divided over what the children will pray.

The proposed amendment doesn't just stop with public schools, but gets into this whole realm of public building and legal assembly.

What could well happen if the amendment becomes a part of the Constitution is that every Baptist institution or any institution of any other denomination that has received public funds can have their whole religious emphasis thrown out. Did you realize that with this proposed amendment a Baptist minister in a Baptist hospital can be forced to pray a nondenominational prayer—that a Catholic priest, a Jewish rabbi can be forced to do the same thing. Ridiculous! It certainly is, but this is the way we are going right now.

It's time for us to wake up. The greatest danger to religious freedom in many decades is right on top of us.

Mr. TALCOTT. Mr. Speaker, my time is limited, so my points will be abridged.

I wish this prayer amendment had not been called up—it is unnecessarily dividing sincere and devoted men who have a common cause. I trust that after the vote we will be able to reconcile our differences and reunite in our quest for religion and religious freedom.

I wish that this proposed amendment had not been called up by the "discharge" procedure—because when we discharged the Committee on the Judiciary we dismissed our best legal talent. As usually occurs in such instances, the lay draftsmanship is admittedly defective. Yet, the discharge procedure precludes satisfactory consideration of amendments. We need the best legal talent and collective judgment available, particularly when proposing to amend the Constitution. We handicap ourselves and impair the legislation when we resort to the "discharge procedure."

More importantly, however, we should deliberate this amendment with a clear perspective; and, as professional legislators, we should set aside the feverish emotionalism which this issue has generated by proponents and opponents alike.

I believe in God—a vital God. I believe in prayer and I pray. I am proud of and grateful for our unique religious heritage and the important part religion has played in the development of our

Nation and our society. I want to preserve this for myself and all other citizens of our pluralistic Nation.

I believe our Constitution, together with the original Bill of Rights, is an inspired document. It is truly the handiwork of God working through man. We should be exceedingly chary and thoughtful when we tamper with it.

I am convinced that I now have the right to pray however I wish, whenever I wish and wherever I wish so long as I do not interfere with others. I am convinced that I can pray in public buildings, including schools. I believe all students and faculty can do so also. I believe this is an inalienable right which the Constitution, the first amendment and most of the courts still guarantee.

The first amendment declares:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . .

So I am satisfied that the separation of church and state, the clear prohibition of the establishment of religion, the freedom of religious expression and the right to voluntary prayer are guaranteed by our Constitution. The whole problem and controversy developed due to inaccurate reporting and a misrepresentation by the secular news media of the Engle against Vitale decision of the Supreme Court of 1962. The decision was widely reported as "banning prayer in public schools." This was an incorrect, even false, interpretation. However, the erroneous reports were believed by many school officials, students, parents, and church leaders and at least two lower courts. This misunderstanding grew and festered because it was difficult for a few religious writers and lawyers, let alone students and laymen, to rebutt, refute or clarify the widely publicized, yet incorrect, secular interpretation of the Supreme Court decision.

It was easy in those days to assume that the Supreme Court decision was bad. The media was generally unqualified to interpret and report an event of deep religious significance. A significant portion of the misreporting of the holding of the Supreme Court was a deliberate effort to polarize and divide the religious segment of our society which had always been a bulwark of the establishment. There was also a conscious effort to demean the Court by pitting churches and solid religious citizens against the Court. All of this is regrettable.

Perhaps several fringe benefits of this current controversy, and the related debate raging in and out of the Congress, will be the clarification of the Court's decisions, a new understanding of our precious right to pray voluntarily, and an appreciation of the vigilance necessary to safeguard our many freedoms of religious expression.

We should remember, correctly, that the U.S Supreme Court in the case of Engel against Vitale in 1962, held that a "prayer" prescribed by the board of regents which schoolchildren were required to recite daily in class was a violation of our Constitution.

The Court was not against God, religion or prayer. The Court did not ban prayer in school or elsewhere. The Court simply banned mandatory participation in officially prescribed classroom "prayers."

Official mandatory "prayers" for students violate the first amendment as well as offend the concept of prayer as a personal, voluntary, intimate communication with one's God. A "prayer" composed by a school board could be coercive, embarrassing or meaningless to most students—all of which vitiates genuine prayer. The Supreme Court was right in this case. The Supreme Court has not prohibited prayer in schools.

There is confusion about what the Supreme Court has said and what it has not said:

The Court did not take "In God We Trust" off our currency. It did not take "under God" out of the Pledge of Allegiance. It did not remove chaplains from the armed services. It did not prohibit use of the Bible as part of courses in comparative religion or literature. It did not forbid occasional prayers or Bible-reading by teachers and pupils on a voluntary, nonofficial basis. And obviously it did not outlaw silent prayers or acts of devotion by anyone at any time or place, public or private.

As a lawyer I do not believe any such decisions will follow. As a Congressman I would oppose them if they were rendered. The issues now before us are entirely separate.

Many proponents of the "nondenominational prayer resolution" admit the correctness of the Supreme Court decision, but, nevertheless, advocate enactment of the amendment to clarify the misunderstandings which have developed concerning it. I suggest that there are much better ways in which to inform or educate interested citizens concerning the right of voluntary prayer in school than by an ambiguous or coercive amendment of the Constitution. The "amendment effort" should have been an "educational effort."

Some proponents admit that legally and constitutionally the "nondenominational" resolution is not necessary and probably could not be implemented—but that the popular political pressures are so strong "for prayer in the schools" that they would prefer to vote for the amendment than to explain why they did not.

Some fear that their "no" vote on the resolution would be incorrectly construed as a vote against prayer, and, therefore, afortiori, against church, religion and morality—even God. This rationale is, of course, outrageous. I have heard of no Member of this Congress who is against voluntary prayer.

Not only do I not want school or Government officials to concoct what they believe to be a nondenominational prayer for school use, I do not even want the clergy to compose a denominational prayer for me or students to recite by rote. Students and I should have the right to pray our own prayers without the mandate of any other person.

Prayer for me, and for students, ought to be a personal, intimate, and genuine communication with God. A "nondenominational" petition composed or edited by a governmental official or committee would vitiate the essence of prayer. The Government should not establish a prayer any more than it should establish a religion. Prayer must be a voluntary, free expression—even though expressed in a public building by students or faculty. But nondenominational is not voluntary and voluntary is not mentioned in the resolution. It appears that nondenominational was intentionally used to enable Government to sanction, censor, or somehow limit prayers, particularly of children, in public buildings. This would degrade prayer, limit our freedom of religious expression, and allow unacceptable control of prayer and religion by the Government. Nondenominational prayers would do more to degrade, rather than exalt, religion and a true religious experience.

Government should not establish religion or supervise the composition of prayer. Neither should Government limit or restrict religion nor dilute or homogenize prayer.

No one can compose a nondenominational prayer. No one can tell us now what a nondenominational prayer looks like.

The first amendment not only prohibits the establishment of religion; it protects the free exercise of religion. Neither the prohibition nor the protection should be vitiated or diluted. The Government should neither establish a prayer—denominational or nondenominational—nor limit a prayer to an official prayer. The proposed nondenominational resolution does both and, therefore, to a degree, vitiates both clauses of the first amendment that have served us so well for so long. The nondenominational resolution invades and limits our present constitutional rights rather than expands or confers additional rights.

The organized church is in trouble today. I am concerned, even worried, about the degradation of our moral standards and the decline in religion. But when the parent and church fails, government should not always try to fill the void especially when it has no expertise and is so pluralistic and denominational that it is unable to concoct a "nondenominational" or "corporate" prayer.

If a prayer is nondenominational, or satisfactorily corporate or universal to meet the definition of the word, it is certain to be so bland or meaningless that it will deprive the child of a genuine religious experience and lull the child, parent, church and community into a false belief that the child is being exposed to a beneficial experience.

Unfortunately the public believes the courts have prohibited even voluntary prayer in schools. The district court of New Jersey in the Netcong case actually held that voluntary prayer by the students was unconstitutional under the Engle against Vitale case. The lower court is probably wrong, but its decision has added to the confusion.

I believe that the House was correct in amending the original Wylie resolution. The "nondenominational" phrase was stricken and "voluntary prayer and meditation" was inserted in its place. With this change the resolution satisfies my objections.

It is difficult for me to object to prayer

in public buildings which is entirely voluntary. Some fear voluntary prayers by students; I do not.

If children cannot pray voluntarily in school buildings then no one else could participate in prayers in public buildings.

Actually the amended resolution is not likely to pass by the necessary two-thirds vote to give the state legislatures an opportunity to vote on this issue. But the vote will serve as a "sense of the Congress resolution" that the House of Representatives approves of preserving the right of voluntary prayer and meditation in schools like it has been for 171 years.

While I opposed the original form of the "nondenominational" resolution, I support the "voluntary prayer and meditation" resolution as amended.

Mr. MONAGAN. Mr. Speaker, I support the resolution which proposes an amendment to the Constitution to make prayer permissible in public buildings.

The majority of my constituents who have communicated with me have supported the resolution by a margin of over 100 to 1 and I believe that democratic procedure requires that it be submitted to the States in the form of a national referendum.

The resolution simply makes it permissible to offer prayer in a public building without reprisal based upon constitutional claims.

This is a custom which has prevailed since the beginning of the Republic and it is worthy of formal sanction. It is difficult to understand the opposition to a modest acknowledgment of omnipotence as one sets about his daily tasks.

It is obvious that the ultimate acceptance of this amendment will not bring about the destruction of the Republic, nor will it speed millions or even thousands down the trail to salvation. After all, we have a daily prayer in both Houses of the Congress without perceptible effect upon the Members, either for good or for ill. Nevertheless, the termination of a longstanding custom seems to me to have been unnecessary.

I felt that the Supreme Court in its prayer cases overemphasized the menace to human liberties and miscalculated the threat of an establishment of religion. In short, this did not appear to be the type of invasion of rights against which the protection of the Constitution was erected.

It should be emphasized that the adoption today of this resolution would not amend the Constitution, nor would it compel any group to institute or conduct prayers of any type or denomination. It proposes to place before the legislatures of the 50 States the question as to whether longstanding customs in our public life should not be validated if it is the wish of the people to continue them. I believe that we should follow this procedure.

Mr. PEYSER. Mr. Speaker, I have been deeply concerned over the proposed "prayer amendment." I have spent many hours reading, thinking, and praying for guidance in reaching a decision on this matter. I signed the discharge petition to bring this matter to the floor of the House of Representatives in order that it could be debated publicly and not remain locked up in committee. I personally see no reason that a group of young people cannot gather together voluntarily in a school or any public building and pray together or discuss religious thoughts they may have—nor do I see anything in the Constitution of the United States that prohibits this kind of action. I guarantee that if any attempts are made to limit the freedom to pray in my congressional district, I will personally join the fight to make it possible for people to gather together for this purpose.

However, I feel, as do the leaders of every organized religion who I have been in contact with who represent the overwhelming majority of the people in my district, that we do not want the State to dictate the type of prayers that we and our children must say.

I have long been active in the Episcopal Church as a vestryman and as superintendent of the church school. I have talked with people of the Catholic, Protestant, Jewish faiths, and people of other persuasions and have found very few who want their children to be exposed to a State prayer. This type of action is similar to the steps taken by the Communist Party in the Soviet Union to control the innermost lives of their people and particularly their children.

It is for these reasons, coupled with a love for this great country of ours and a love of the freedom which our Constitution and particularly the Bill of Rights have given all of us, that I have voted against this misleading amendment.

Mr. BRASCO. Mr. Speaker, we have before us an amendment that would allow prayer of one sort or another in a series of public institutions. It would affect in particular our public schools.

Prayer is an integral, vital portion of my own personal life, and I want to emphasize that if this were simply a decision for or against prayer, my vote would be an easy one to cast. I was one of those Member who signed the discharge petition that allowed this measure to be brought here to the floor of the House so it could be voted on. It was my feeling then and is my feeling now that we should air it and vote it up or down on its merits.

After careful consideration, I shall oppose the amendment for a variety of reasons. The wording of the amendment appears to be very simple in that it would allow voluntary prayer in public institutions. However, let's take a closer look.

Think for a moment about what the word "voluntary" means to a small child in any school in the Nation. Does that child ever have a choice? Never. If any activity is termed "voluntary," the child must participate. The social pressure from his peers and adults monitoring that activity will eventually require his participation. So it is easy to see that if "voluntary" prayer is legalized in public schools, it will be mandatory in fact.

Next we come to the question of what kind of prayer it would be. No matter how we seek to evade such an appellation, in some way or another the prayer will have to be denominational in some manner. Although some might optimistically hope to devise a nondenominational prayer, this would inevitably offend me or several or even many of the various religious denominations that make up America's religious community. In truth, it is absolutely impossible to devise a prayer that would be suitable in terms of conscience to all the hundreds of diverse religious groups in the Nation.

Who would devise such a prayer? Will it be the local, county, State or other board of education? Will it be the Board of Regents? Will it be the Governor? Where do the religous leaders come in? Do they come in at all? Surely people whose children will be uttering the words will want their religious leaders to aid in devising the wording.

What happens in some area of the Nation or State if one group is predominant in numbers and seeks to impose its version of a prayer upon the minority who would find it unsatisfactory? However well intentioned this amendment is, it is the beginning of an invasion of the privacy of prayer, which properly takes place in the home and house of worship.

We cannot legislate morality. In the process we would do violence to the sacred principles enshrined in our Bill of Rights, which so far in our history has protected all of us in enjoyment of religious and other freedoms.

America is composed today of thousands of various groups of citizens whose origins are mainly in the old world of Europe. It is well to point out that these groups more often than not spent the better part of a thousand years in that old world tearing one another to pieces, usually in the name of religious practice. This has never, however, transpired here. Why? Because Government has never favored one religious group over another. All have been equal, free to set up their houses of worship as they saw fit. Religious freedom has flourished and no one has been able to go to the National Government and demand favoritism for one prayer at the expense of any other prayer. Enactment of this amendment would set the stage for just that.

The Founding Fathers of this Nation knew well what favoritism has done in the old world, which was precisely why they deliberately sought to evade its repitition in the Constitution. The wall of separation between church and State was their favored creation and it has worked well.

If we create a particular prayer for the schools, we set a precedent, allowing government to intervene at some future date to set up any prayer of its choice—not just in public schools. It could intervene in private schools or in the house of worship themselves.

And if freedom of religion could be tampered with, what about freedom of speech, privilege against self-incrimination and requirements for a fair trial? Dare we set a price upon inalienable rights?

Because we have religious and cultural pluralism in America we have survived and grown strong. If we give in on this today, we shall break down the barriers that have sheltered us and turned our diversity into an asset.

Religion belongs in the home and house of worship. Recitation of any prayer will not do any good at all if

previous training has not taken hold in a child. Prayer in the schoolroom will divide it into different religious groups, each vying for preeminence. The courts would bulge with lawsuits brought by outraged parents.

I have sought a variety of advice from leaders of all religious denominations. Bishop Joseph L. Bernardin, for one, of the U.S. Catholic Conference, which is on record in opposition to this amendment, states the case succinctly. He said:

I wish to emphasize that the conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools. Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer . . .

The subtle implication of the admendment, therefore, is that . . . prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.

Moreover, the amendment cannot be justified as a "school prayer" amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the School Prayer cases.

Passage of the amendment might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved.

I am certain that everyone involved in this issue has acted in good faith. I wish to assure all those I have the honor to represent that my vote represents a vote for religious liberty and for prayer. The government has its hand into enough areas already. Let us insure that it will stay out of our individual religious faiths and houses of worship. I do not wish to see any interference at any future time on the part of Government in my religious life or that of any American. For that reason, we must prevent Government from getting its foot in the door. Let America remain free in a religious sense for all, secure in the timeless guarantees of the Bill of Rights. That, after all, is what it is all about, is not it?

Mr. QUIE. Mr. Speaker, I strongly oppose House Joint Resolution 191, proposing to amend the Constitution of the United States with respect to the offering of prayer in public buildings as it is presently written. Undoubtedly, some clarification will be necessary to determine the exact meaning of "assembled," "public buildings," and "public funds," but this is not, in my estimation, insurmountable.

My strong opposition to the amendment is over the word nondenominational. I believe prayer is a person's communication with God and if it means anything, he ought to pray as he has learned to do so, not in some manner which a majority of the people in his community, the State, or the Court has determined to be "nondenominational."

To give you an idea to the contrary, most people would think that the prayer, "God is great, God is good, and we thank Him for our food, Amen," would be nondenominational; however, if one is of the Islam religion, he would, in praying such a prayer, use the wording, "Allah is good, Allah is great, and we thank Him for our food, Amen."

Many people would think such a prayer is certainly denominational. I pray as a Christian in a way that would surely be determined denominational and so do my children. If a constitutional amendment is going to protect the rights of people to pray, it certainly ought to protect their right to pray as they believe.

I do not see where a nondenominational prayer would do much good other than in the way that any other recitation would affect students.

The Supreme Court has held that required prayer or prescribed prayer in public school is prohibited by the Constitution. I agree, and feel that official or governmental prescribing of prayer would be unwise.

From the American Law Division of the Library of Congress, I obtained this information:

Taking the *Engel* and *Abington* cases together, they proclaim that a state or its instrumentality cannot institutionalize or sanction any form of religious exercise in the public schools, notwithstanding the fact that students might have the option to refrain from participating.

I disagree with the lower courts which have consistently held that formal action by school authorities in providing for a prayer program in public schools, even though voluntary, cannot be constitutionally justified on the basis that students are not coerced into attending the program.

The American Law Division also indicates what Engel and Abington did not decide: first, they did not determine whether a religious exercise resulting from a spontaneous expression on the part of the students, without any overt encouragement from the State, would violate the establishment clause, and second; they did not affect the right of school districts to hold nonreligious activity on the school premises. The study of the Bible as literature in the public schools, for example, would be untouched by the establishment clause.

During this debate, no one seems to have a clear idea of what "nondenominational" prayer really is and those who attempt to explain it do not find much agreement among our colleagues. If this constitutional amendment were adopted, who is to determine what is nondenominational and what version of the prayer will be used. If one presupposes that the constitutional amendment would reverse all Supreme Court decisions, then, of course, the State would prescribe nondenominational prayer and that would surely be offensive to me and I think to most of you. Surely, the word "nondenominational" in all its connotations would lead to a political divisiveness over prayer that was sought to be prevented by our Founding Fathers and it certainly would not be satisfactory to any organized religious group.

I understand that an amendment will probably be offered to strike the word "nondenominational" and insert in lieu thereof "voluntary." This I would strongly support.

Mrs. GRASSO. Mr. Speaker, I favor prayer. It is, to me, strength and comfort—an important part of my daily life.

I believe that each person must be guaranteed the right to pray to the God of his choice and in the way he chooses. It is because I believe in prayer that I oppose House Joint Resolution 191 in its original form and as revised by amendment.

House Joint Resolution 191 in its final version after too limited debate provided:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer or meditation.

This proposed constitutional amendment, despite its apparent dilution, presents a threat to the very religious liberties it professes to preserve. Its wording is still open to a variety of misconceptions and possible misinterpretations, as indicated in the too brief debate in the House today.

The supporters of House Joint Resolution 191 claim that separation of church and state would not be violated by the enactment of this amendment. Yet, it would still be the responsibility of legislatures, school boards, and courts to define the format of voluntary prayer, despite all protestations to the contrary.

Supporters claim there would be no coercion against those who do not want to participate in this so-called voluntary prayer. However, noncoercion may take subtle form in this hastily conceived and insufficiently developed substitute.

Clearly, legitimate questions can be raised about the language of this amendment—about what is vague and left unsaid by this crucial undefined phrase.

What is a so-called voluntary prayer? Can a prayer be voluntary with respect to all the religions people in our Nation practice? After all, over 80 religious sects in this country have more than 50,000 members each. Prayer that one group considers to be acceptable might well run counter to the religion and ethics of another.

I believe that passage of House Joint Resolution 191 as now amended could result in significant restrictions on the religious freedom guaranteed by the Constitution.

My objection to the original amendment was that, by specifically allowing so-called nondenominational prayer in public buildings, House Joint Resolution 191 could have had the effect of precluding denominational prayer where it is now permitted in public buildings. At the present time we have in many parts of the country, and in my own State of Connecticut, denominational prayer and services in public places which this amendment could have jeopardized. For this amendment did not explicitly guarantee denominational prayer in public places where it is now allowed.

In many areas of the country, certain religious groups lack their own facilities for meetings. Under present law, they can

legally use or rent public facilities for services. By guaranteeing so-called nondenominational prayer alone, House Joint Resolution 191 could have prevented this action in the future.

The drafting of legislation with regard to the exercise of religious freedom and the basic rights of our Constitution deserve the most careful and thoughtful consideration. It is regrettable that in a matter of this importance the vote was determined by haphazard legislation written on the floor of the House without full consideration of acceptable alternatives.

Mr. PREYER of North Carolina. Mr. Speaker, this is one of the hardest decisions I have had to face in Congress. I strongly believe in our American religious heritage and believe no education is complete unless this heritage is a part of it. I profoundly sympathize with the desire of the sponsors of this amendment to do something to strengthen the moral and spiritual underpinnings of this country in an increasingly permissive society.

Why, then, should we not all support an amendment which has so worthy an aim? Why, the average citizen might wonder, are so many people who revere religion—like the Southern and American Baptist Conventions, the Lutheran Church, and the United Methodist Church—so strongly against it? All of us want to promote public morality and the study of religion and the Bible in our schools.

One reason these religious groups are against the prayer amendment is the fear that it will lead to political disputes on religious matters. By placing the responsibility on an arm of government, the local school board, to determine what kind of prayer should be used and what not, we invite religious strife. What would happen in a local school board election, for example, where a community is sharply divided along religious lines? And religious strife will continue to be fueled by cases before Federal courts to determine whether a particular prayer is "nondenominational" or "voluntary." Such disputes will be demeaning to religion rather than revitalizing.

Another reason that deeply religious people are against it is the fear that the strict separation of church and state in this country will be endangered. A firm principle in our Constitution is that no official, high or low, can prescribe what shall be orthodox in religion. Religious faith is a private and personal matter, and no one—including school board officials—shall tell us how to practice it.

No arm of government shall tell us how to pray. It is not a question of lack of faith in religion as a guiding star in our national life but of lack of faith in government to tell us how to practice religion. Government does not belong in this private, personal, and spiritual realm.

Finally, many of us are concerned that the adoption of this amendment would be the first time that our Bill of Rights has ever been amended and narrowed in its operation. The Bill of Rights is the one unique American contribution to the art of government. It is the engine and driving force of our government. To begin to amend the Bill of Rights will establish a precedent which may prove too easy to follow in the future. To pass this amendment would be to take a first experiment with our liberties, a grave responsibility. Certainly it would be most unwise to tamper with the Bill of Rights for the first time in our history simply to clarify the misunderstandings about the meaning of the Court's prayer decision. Passing a meaningless amendment which only spells out existing law would be a dangerous gesture.

Few issues have so confused the American people or their representatives.

This is not a vote on whether voluntary prayer or Bible reading is allowed in our schools. Existing rulings allow both.

This is not a vote on whether people may voluntarily pray in public places. They may already and they do, as most of us who attend public meetings know.

This is a vote on whether government may tell you what kind of prayer to pray and the language of this amendment would restrict far more than any court decision. For instance, some of the proposed language would forbid the mention of Jesus Christ in public prayer.

A vote against this amendment is not a vote against religion but is done out of devotion to our Constitutional heritage which includes the guarantee of total religious freedom.

No man should tell another that he cannot pray—anywhere; but no man should tell another how to pray—ever.

Mr. HAMILTON. Mr. Speaker, I oppose the prayer amendment for several reasons:

First. Hasty procedure:

The House of Representatives should not amend the Bill of Rights for the first time in the Nation's history with no consideration of the amendment by a committee and with only a scanty 2 hours of debate. This amendment has protected religious liberty and basic religious freedoms for 2 centuries. It should not be amended without profound and deliberate consideration.

Second. Unclear meaning:

The meaning of the amendment is not clear. Although I am not entirely happy with the Supreme Court's decisions of 1962 and 1963 against State-sponsored prayer and devotional Bible reading in public schools, I believe it is wiser for our Nation to accept the decisions than approve a vague and imprecise amendment. We should not approve an amendment to the Bill of Rights unless we are very certain what the amendment means.

The proposed amendment raises many questions, among them: what is "nondenominational" prayer? Who determines whether a specific prayer is nondenominational? How does the amendment change present law? If the amendment is adopted, can a denomination prayer be given in a public place?

The purpose of the proposed amendment is also vague. The law today permits a person to participate in prayer, denominational or nondenominational, in a public place, but it does not permit governmental officials, including teachers, to sponsor a prayer.

The proposed amendment does not deal with the question of who sponsors the prayer, which was the question in the Supreme Court cases. It may be that the amendment changes nothing, although the primary sponsors of the amendment claim that it would permit nondenominational prayer in the schools. The point is that the proposed amendment does not directly deal with the law as expressed in the Court prayer cases, and its impact is uncertain.

As Americans, we are already guaranteed the right to participate in prayer, nondenominational or denominational, in buildings, public or private, and whether or not lawfully assembled. These rights are guaranteed to us by the first amendment. By permitting only a certain kind of prayer, the proposed amendment might actually lessen our religious liberty rather than broaden it.

Third. Amendment erodes separation of church and state:

The amendment would erode the fundamental separation between church and state and would lead to political disputes on religious matters. This was one of the basic problems that the Founding Fathers sought to avoid. The proposed amendment would subject prayer to Government sponsorship and regulation.

The sponsors of the amendment acknowledge that whether a particular prayer is "nondenominational" must be determined initially by school boards and finally by a court. Religious authorities have been unable to agree on the definition of prayer, let alone the definition of "nondenominational" prayer. If they cannot, there is little reason to believe that school boards or State officials could. The power to decide what prayer is to be used could cause sharp divisions within our educational systems, as different groups would contend to have their prayer approved by the school authorities.

Any prayer would show favoritism to some group and I can imagine religious groups lobbying local officials to have their nondenominational prayer chosen as the one to be used in a local school.

This amendment could become a first step toward government involvement in religion.

Fourth, Impressive opposition:

I am impressed that a broad spectrum of religious groups, educators and constitutional authorities oppose the prayer amendment.

Most of the major religious bodies in the United States oppose it, including:

The United Methodist Church.
The Protestant-Episcopal Church.
The United Presbyterian Church.
The Lutheran Church.
Missouri Synod.
The American Lutheran Church.
The Lutheran Church in America.
The National Council of Churches.
The Southern Baptist Convention.
The American Baptist Convention.
The United Church of Christ.
The Church of the Brethren.

The Joint Advisory Committee of the Synagogue Council of America and the National Jewish Relations Advisory Council (which include all the major Jewish secular and religious bodies).

The United States Catholic Conference (the national action agency of Roman Catholic bishops).

A long list of 343 lawyers, constitu-

tional law professors, and law school deans from 60 schools of law have opposed the amendment.

Fifth. Amendment might weaken religion:

The amendment might weaken, not strengthen, religion. Even assuming that a nondenominational prayer can be composed, and disregarding the question of who should compose it, I wonder whether it is possible to have a "nondenominational" prayer. By its very nature, religion is intensely personal and denominational. If a nondenominational prayer can be found, it will reduce religion to the lowest common denominator, and I am afraid it will not be a very effective religion. The proponents of the amendment argue that prayer in the schools will promote public morality, honesty, and decency. I question the effect of such nondenominational school prayer in public morality. The real places to bring religious influences to an individual are the home and the church, not the public school.

Sixth. Substitute language does not solve problems:

During the debate on the amendment, the word "voluntary" was substituted for the term "nondenominational" in the language of the measure. Although the change improved the amendment, it did not remove the basic objections. The sudden change in language also suggests how hastily the proponents of the amendment acted. The Congress ought not to alter language that has stood 200 years of testing within a few minutes and during heated debate on the floor of the House.

The impact of the new language remained unclear. What is "voluntary" prayer? Who decides whether a specific prayer is voluntary? How does it change present law?

While supporters of the new language argued that no school official could compose or prescribe a prayer, it was never stated just what the meaning and impact of the word "voluntary" was, and how this amendment would work. The supporters rejected an attempt to alter the language to read that no school official could draft the prayer that would be used, raising doubt about the role of school officials in sponsoring voluntary prayer.

Some supervision and coordination by the teacher, or other public official, would be involved under the amendment, and it would constitute sponsorship of religion by the State. The mere fact that a classroom is furnished and a prayer period is designated make clear that the State sponsors the activity and raises serious constitutional questions of separation of church and State. Truly voluntary prayer, without the "compulsion" of children in school under the supervision of teachers, is already permitted. The sponsors want prayer under the controlled circumstances of the school.

Moreover, the amendment is unnecessary since voluntary prayers that are the private prayers of an individual or group prayers of students not meeting under government sponsorship are already permitted.

There are other obstacles to the use of the word "voluntary," including:

First. Striking the word "nondenominational" from the amendment and substituting "voluntary" means that any voluntary prayer could be denominational, thus allowing the public school to become the forum for denominational instruction and prayer.

Second. No prayer can really be voluntary when school attendance is compulsory and when pressure from schoolfriends makes it hard for a child to refuse to participate.

Third. Under the changed amendment the same opportunity is present for a majority to impose their will upon a minority.

The Constitution permits every American to choose his form of worship and prohibits any religious exercise composed or imposed by the government. We should not tamper with these vital rights after only 2 hours of debate, when the proponents of change decide midway in the debate to alter their own language, and when no proponent really attempted to spell out what was meant by the word "voluntary."

For an uncertain gain—the recitation by school children of nondenominational or voluntary prayers by rote—the risks are great of disrupting freedom to worship or not, as a person chooses, and upsetting the separation of church and state.

THE LAW TODAY

Much of the support for the amendment arises because of the failure to understand the status of the law today.

The law today, without the amendment, does not bar prayer and Bible reading from the public classroom. It does not prohibit school children from praying in school. It does not ban voluntary prayers if they are private prayers of an individual or group prayers of students meeting on their own time and of their own volition. But, if the prayers are part of an official classroom exercise, conducted by a teacher, they are not permitted.

It does prohibit government from writing their prayers and sponsoring their devotions. The law does not put God out of the school or out of public life in America. It does not eliminate all religious expressions from public life.

The law today allows the use of the Bible and the study of it for literary and historic qualities, the study of religion and its role in advancing civilization, instruction in comparative religion, recitation of historic materials containing references to God, singing patriotic hymns, and references to God in mottos and in ceremonial occasions.

CONCLUSION

Finally, I want to make clear my appreciation of the motivations of those who favor this amendment. They are good, devout people, and many of them are my good friends. It gives me no joy to oppose an amendment they fervently support. I share many feelings with them, including a concern about the need for strong religious and moral principles in the life of this Nation. With them, I believe that the people need these principles to make this Nation work, and without them, ordered liberty has no chance and free government cannot survive. But I do not believe these concerns are met by the proposed constitutional amendment. A perfunctory exercise in the classroom is not the substance of religion or morality, and the adoption of an imprecise, hastily considered amendment with great potential for mischief is not the path toward a strengthening of religious and moral life of the Nation.

Mr. THOMPSON of New Jersey. Mr. Speaker, I oppose House Joint Resolution 191, the so-called school prayer amendment. This amendment would drastically alter the substance of the religious freedom guaranteed by the first amendment to our Constitution, an amendment which has served us well for 180 years, and which was intended to prevent a repetition of the bitter experiences of our Founding Fathers with State-sponsored religion. In our consideration of this serious issue we should heed the warning of James Madison, author of the first amendment, who wrote:

> It is proper to take alarm at the first experiment on our liberties . . .

For one, I am alarmed at the experiment proposed by House Joint Resolution 191, and I will state some of my reasons.

Initially, it would be well for all of us here to ask what this resolution is intended to do. We have all heard proponents of the resolution assert that its passage will "put religion back into the public schools." I say that religion does not belong in the public schools, but in our churches. We also hear supporters claim this resolution will stimulate religion. But this claim is contradicted by the position of our Nation's major religious organizations and denominations, which oppose this resolution.

But House Joint Resolution 191 is not merely a well-intentioned measure which does not achieve a desirable end. It is a dangerous proposal which will require active Government intrusion into religious doctrines and practices.

The resolution purports to protect the right of lawfully assembled persons in public buildings to participate in "nondenominational prayer." We are not told what constitutes "prayer," much less what constitutes "nondenominational" prayer. By using these terms, the resolution will require Government action which will be an insult to those who believe that religion is too personal and sacred a subject to permit any Government intrusion into its substance. By validating only "nondenominational" prayer the resolution will entail decisions by State officials as to whether a given prayer is or is not "nondenominational." This will likely mean that some arm of Government will attempt to compose a suitable "nondenominational" prayer for use in the schools. I will frankly say I never expected to be in an apparent minority in my firm conviction that it is no business of the Government to compose or pass upon the propriety of a prayer which American citizens will be required to recite as part of a religious program sponsored by the State in its

schools. The purpose of the first amendment's guarantees of religious freedom was to prohibit such Government interference and control over the religious life of our citizens.

Mr. Speaker, some say it is smart politics to be for prayer. But to be for prayer does not mean that one must be for this resolution. Meaningful religious experiences and training must originate with the individual, his home, and his church. In my view, it borders on the hypocritical to suggest that a child's rote recitation of a prayer composed or approved by a Government official promotes religion.

I will refuse to vote to grant to the State the right to exercise any control over the religion of our citizens. I ask my colleagues to join me in voting against House Joint Resolution 191.

Mr. SYMINGTON. Mr. Speaker, for the first 59 minutes of this "controlled" debate we wrestled with the ambiguities inherent in the concept of "nondenominational" prayer. It must have been 59 minutes usefully spent because it caused the proponents of that language, who had brought to the floor ironclad pledges to support it, to abandon it, rather lightly I thought, in favor of a quite different proposal "voluntary prayer and meditation."

The some 400 or more of us present were then allocated another 60 full minutes to exchange views on the consequences of adopting the substitute. One or two additional and possibly meritorious amendments to the Bills of Rights were openly suggested during the course of that hour. These and other sudden inspirations were busily inscribed on scratch paper and handed around for comment. Not that a mighty and enduring amendment to the Constitution cannot first appear on scratch paper or a last minute marginal note, but some degree of reflection and conversation throughout the country should precede its being chiselled into the marble of our organic law.

The House in a display of self-discipline did confine its attention to the two major alternatives before it, the original and the annotated version. Defending the former—"nondenominational"—my friend the gentleman from Ohio (Mr. WYLIE) had already offered clerical reassurance about its likely construction. He had done so by invoking the guidance of a rabbi—CONGRESSIONAL RECORD 38667, November 1, 1971—who said it would allow for mention of our "Creator and Master of the Universe," a Baptist clergyman—CONGRESSIONAL RECORD 38635, November 1, 1971—who said it would permit mention of "Our Lord," meaning "Jesus Christ," and his own institution—CONGRESSIONAL RECORD 38694, November 2, 1971—that differing religions could—

> Take turns in offering a prayer of their respective religions. Considering the matter in its totality, the overall character of such a policy would be nondenominational.

Members who saw no inconsistency in the above interpretations were understandably reluctant to consider abandoning "nondenominational" in favor of the late entry, "voluntary prayer and meditation." Yet the latter prevailed. Why? Perhaps some were relieved to be able to express lingering doubts as to the precise meaning of "nondenominational"; others may have deemed "voluntary prayer and meditation" either "harmless" or a mere restatement of the law as it already exists. Yet while the precise interpretation of "voluntary" prayer is already in a state of dynamic tension between school prayer experiments and high court rulings, there would seem to be no need to beg the question specifically anew in the Constitution itself. We merely enter the same maze, and would find ourselves either back at the beginning or at the one exit provided, the doors of the Supreme Court. With "nondenominational" all beginnings would have merged in an inevitable mass march to those doors. Some not too distant day that Court would be asked to resolve the bickering between school boards, lower courts, parents, and dissident citizenry by affirming the constitutionality of some national prayer, good for all occasions. It would seem paradoxical to oppose letting the Court decide whether we may pray and then seek its guidance on how we can pray.

I hope and expect to see proper decisions made by the courts, and the Nation's schools and school authorities which will lead to the restoration of prayer in the schools, not only voluntary, but even denominational if desired and properly separated. If one's inhibitions should ever be at a minimum it is in expressing one's faith and addressing one's God. Yet "nondenominational" prayer implies compromise. Self restraint in the expression of the deepest convictions we are capable of having would seem a strange result of the application of first amendment principles. As the Supreme Court said in *Tinker* v. *Community School District,* 398 U.S. 503 (1968):

> First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years.

The Supreme Court has never ruled participation on school grounds in truly voluntary prayer of any kind to be unconstitutional. It will not rule it so. And bearing in mind Holmes' dictum that the life of the law has not been logic but experience, reasonable approaches along these lines should be tried, tested, and rejected with all appeals exhausted before resort to the amendment process is warranted.

Only a few such tests have been made, most notably the case of *Board of Education of Netcong et al.* v. *State Board of Education et al.,* 57 N.J. 172, 270A 2d 412 (1970), certiorari denied 401 U.S. 1013 (1971). In this case prayer readings from the CONGRESSIONAL RECORD by students voluntarily gathered in the school gym before the start of the school day were struck down by the New Jersey Supreme Court as being in violation of the first amendment. Certain factors, including vituperative references in an amicus brief to Justices of the U.S. Supreme Court may have led a majority of the latter to vote to deny certiorari. Justices White and Stewart, however, voted to grant it, this in 1970, since which time three new and possibly more curious Justices will have donned the robe. In the meantime "Netcong" is not the law of the land.

I concur with the gentleman from Alabama, my friend, Mr. BUCHANAN, in the hope that all the Nation's courts, including the highest, will look with greater favor on the efforts of the American people to provide our children with appropriate opportunities to pray in the public schools. True, prayer is personal, but properly and sensitively provided for, communal religious observances can and should have the effect of softening daily antagonisms, strengthening individual commitments to excellence, and building a sense of respect for one's fellow man, goals which are not incompatible with the learning requirements of growing children and certainly not per se constitutionally denied them in school or any other place.

The public schools may not, in fact, prevent children from engaging in peaceful protest—Tinker against Community School District, supra. It would be unseemly to have to justify joint prayer in the name of protest. I would call upon the Nation's educators, school authorities, and constitutional lawyers to come with a plan, not a prayer, by which American children could participate in school in religious observances of their parents' and ultimately their own choice, or refrain from doing so without compulsion or the obloquy that can attach to nonparticipation. I think "Netcong" came close. Let us keep trying. We could have the answer long before a ratification process may have run its course. In that way we would not have to sacrifice the freedom of today's children for tomorrow's.

Mr. WYLIE. Mr. Speaker, how much time do I have remaining?

The SPEAKER. The gentleman from Ohio has 4 minutes remaining.

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

Mr. Speaker, we have come to the culmination of 9 years of effort by Mr. and Mrs. Average American to bring this issue to the floor of the House for a vote. On no other issue has there been as much continuing interest and constant effort. The amendment has been attacked on the grounds that it would alter the first amendment to the Bill of Rights for the first time in our history, but 16 amendments have been added to the Constitution since the Bill of Rights. And we would not be here today were it not for the 14th amendment which certainly changed the thrust of the first amendment as the Court said in the Engel case—the case which has brought us here. But change through the Constitution was contemplated and a procedure was provided for the people to have their way, if a basic right was being taken away.

This measure does not force anybody to do anything. All it does is allow children to use school buildings for voluntary prayer. That is the simple matter of the thing.

We have heard about the ministers

and the priests who oppose this resolution. I have a list of many more who are in favor of it. The most recent poll on this issue shows that up to 92.5 percent of the American people have said ,"Yes, we want this kind of an amendment."

People came to the United States from England to escape the religious preeminence of the Church of England. But the Founding Fathers had not been here very long when they started establishing their own State churches in Maryland, Virginia, North and South Carolina, and Georgia—and, thus, the reason for the first amendment. It was not contemplated that atheism would be given preeminence as a religion so that a religion which had as its foundation a belief in God would be prostrated—in any forum—public school or otherwise.

I can recall as a child in elementary school, the teacher opened the day's activities with a prayer to the Supreme Deity and a pledge of allegiance to the American flag. There was something reassuring about that, and I think we need to return to this foundation stone of our democracy. There is something ludicrous about the recognition of the Supreme Deity when we open Congress, when we open the Supreme Court, when we provide chaplains for men in the Armed Forces, and then say that recognition of a Supreme Deity shall not be permitted in our public schools.

We have an opportunity right now, in this the people's House, to allow the people to speak—to debate this issue in the legislative halls of the 50 States. This is the kind of safety valve provided for in the Constitution and, because of the confusion and frustration, such a debate could be meaningful.

We have a motto above our clock—"In God We Trust." It is time we returned to an unapologetic recognition of that basic principle in the public schools of our Nation.

I urge Members to vote for passage of House Joint Resolution 191.

The SPEAKER. The time yielded by the gentleman from Ohio has expired.

Mr. WYLIE. Mr. Speaker, I yield to the gentleman from Alabama (Mr. BUCHANAN) for the purpose of offering an amendment.

Mr. BUCHANAN. Mr. Speaker, I have an amendment at the desk.

The SPEAKER. Does the gentleman realize he will lose control of the time?

Mr. WYLIE. The gentleman realizes he loses control of the time. I do yield to the gentleman from Alabama for the purpose of offering an amendment.

The SPEAKER. The gentleman has yielded the floor.

MOTION OFFERED BY MR. CELLER

Mr. CELLER. Mr. Speaker, I move the previous question on House Joint Resolution 191.

The SPEAKER. The motion is completely and highly privileged and is in order.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GERALD R. FORD. Mr. Speaker, if the previous question is voted down, does that permit the offering of an amendment by the gentleman from Alabama (Mr. BUCHANAN)?

The SPEAKER. If it is voted down, any proper motion can be made.

The question is on the motion offered by the gentleman from New York (Mr. CELLER).

The motion was rejected.

AMENDMENT OFFERED BY MR. BUCHANAN

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

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 2, lines 1 and 2, strike out the word "nondenominational" and insert in lieu thereof the word "voluntary"; and on page 2, line 2, strike out the period and add the words "or meditation."

The SPEAKER. The gentleman from Alabama is recognized for 1 hour on his amendment.

Mr. BUCHANAN. Mr. Speaker, I yield myself whatever time I may consume.

Mr. Speaker, I regret that the hour has come when the people's branch of the Federal Government must speak out in a clear and impelling voice on a constitutional question of the greatest moment.

I regret it, I say, because I regret that series of decisions, first of the Supreme Court itself and then, based upon it, of the lower courts and of the school administrations which have become more and more restrictive of religious liberty on the part of the schoolchildren in this country, and which, in my judgment, have served to violate the free exercise clause of the first amendment to the Constitution rather than to fulfill it.

I regret that the great Committee on the Judiciary, for which I have the highest respect, has had to be discharged from consideration of the resolution before us that the House might at long last bring this matter to the floor and vote on it.

Mr. Speaker, it is not my intention nor my purpose that the state should determine religious matters in this Republic or that the state should prescribe prayer, but it is my purpose to so amend the resolution before you that we can answer the primary defects which have constituted the thrust of the argument against it and that the House may seek to defend the religious liberty of the people.

Now, why do I ask you here today to support this amendment and then to support the amended resolution?

Mr. Speaker, in the first place it is a mistaken view of American history to assume that this Government and this Republic has ever been neutral in the matter of religion.

Oh, it is certainly true that our Founding Fathers sought to erect in the first amendment a wall of separation between church and state, a union which they sought to avoid forever in this Republic. They had suffered, had our Founding Fathers, from the excesses which occur when the church controls the state or when there is an organic relationship between church and State.

They desired no holy Roman Empire or Church of England or any other state church. Mr. Speaker, Baptist ministers in the Colony of Virginia, for example, had during the colonial period and prior to the Revolutionary War, been beaten, imprisoned, and run out of town for proclaiming in that colony their own faith and their own dissent.

Those Pilgrim fathers who had come to this continent, crossing an uncharted ocean and settling in the New World seeking a place to live, to work, and to worship in freedom themselves set up state churches in their colonies, and proceeded to cut off the voice of dissent and to punish dissenters. It was precisely because of this right to dissent so often violated and free expression so often denied that our Founding Fathers sought to eliminate, to preclude this deplorable condition in this Republic. They sought to make certain that there would be no particular religious favoritism to any particular religious sect and no state church established in America.

But, I am submitting to you that those same people who founded this Republic were, in overwhelming majority, deeply religious people. When we or the courts place restrictions on the free exercise and free expression of religious faith, we then discriminate against those who believe and elevate atheism above theism and nonreligion above religion. In so doing, we are out of step with the reality and the substance of American history.

Mr. Speaker, in the Declaration of Independence itself there are four references to the deity: "The laws of nature and of nature's God," that "all men are created equal, that they are endowed by their creator with certain inalienable rights," and "appealing to the supreme judge of the world of the rectitude of our intentions," and "a firm reliance on the protection of divine providence." These are the four references in the Declaration of Independence to deity.

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

Mr. BUCHANAN. I shall yield to the gentleman from New York in a few moments substantial time, if the gentleman desires it, when I have completed my statement.

Mr. CELLER. That is the purpose for which I ask the gentleman to yield.

Mr. BUCHANAN. George Washington at the Constitutional Convention said:

Let us raise a standard to which the wise and honest can repair. The event is in the hand of God.

Benjamin Franklin in calling for a Constitutional Convention prayer said:

I have lived a long time and the longer I live, the more convincing proofs I see of this truth . . . That God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?

As Mr. Justice Stewart pointed out in his dissenting opinion, each President from George Washington forward has, upon assuming office, asked for the help and protection of God.

For example, as did Washington, Adams, and Jefferson before him, and as have all Presidents through Mr. Nixon after him, on March 4, 1809, President James Madison, often referred to as the father of the first amendment, upon assuming the office of President, spoke of "the guardianship and guidance of that almighty being whose power regulates the destiny of nations, whose blessings

have been so conspicuously dispensed to this rising Republic, and to whom we are bound to address our devout gratitude for the past as well as our fervent supplications and best hopes for the future."

In the preamble of each State constitution there is a statement regarding the faith in God of the people of their State in forming the Constitution.

Taken from the outset, as indicated a moment ago with regard to chaplains in the Continental Army, there has been a military chaplaincy throughout the history of this Nation.

There is in this House the practice, as there always has been in the life of the House and of the Senate, of opening our sessions with prayer.

There is a Prayer Room in this Capitol Building.

Each week, voluntarily, members of the House prayer breakfast and Senate prayer breakfast groups meet in this public building to voluntarily pray and have a devotional service together.

And, inscribed upon this wall, as has been heretofore mentioned, there are the words "In God We Trust."

Mr. Speaker, what we seek to do today is to underline the fact that while we will not show favoritism for one sect against another sect, we are in the mainstream of American history in believing this is and must be a nation under God. While we do not seek a state-prescribed prayer—and it is my judgment that the language of my amendment would preclude such a state-required prayer—nevertheless it is our position in the people's branch of the Government to come down firmly in support of this Nation under God, not against God, not neutral on God, but one nation under God, as we state in our pledge of allegiance to the flag.

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

Mr. BUCHANAN. I yield to the gentleman from Oklahoma for purposes of debate only.

Mr. EDMONDSON. Mr. Speaker, I thank the gentleman for yielding. I will support his amendment. I believe his amendment does improve the amendment that is before us, and with the adoption of the amendment I believe most Members of the House will have no difficulty in supporting the amendment.

The gentleman has just said that he believes that the substitution of the word "voluntary" will make it unlikely that any kind of Government or State dictation would be present in connection with the prayer said. Would the gentleman be willing to accept an additional amendment to his language which would provide specifically that:

Nothing in this article shall be construed to enable or empower any public official or governmental authority to direct or prescribe the form, content, or scheduling of such prayer.

Mr. BUCHANAN. I will say to the gentleman from Oklahoma that in my judgment that language is unnecessary because it is implied in the language of the amendment itself. But if the gentleman will withhold further on this question, as the debate continues I hope this will be clarified.

Mr. EDMONDSON. I thank the gentleman for yielding.

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

Mr. BUCHANAN. I yield to the gentleman from Georgia (Mr. FLYNT), for purposes of debate only.

Mr. FLYNT. Mr. Speaker, in 1962 many Americans, including a majority of this body and myself, learned with shocked disbelief that the U.S. Supreme Court had declared the participation in organized prayer conducted in public schools to be unconstitutional and in violation of the first amendment of the U.S. Constitution. Headlines appeared on many newspapers to the general effect that: "Supreme Court Outlaws Prayer." Many segments of the news media carried the story based on the initial reports without ever reading or publishing the significant language in the opinion itself.

It was unfortunate that the facts in that landmark case, *Engel* v. *Vitale*, 370 U.S. 421 (1962), led the Court to the conclusion it reached. This is an example of the proverb that hard cases make bad law. While I personally can find nothing objectionable in the language of the prayer in the Engel case, it was unfortunate that the State of New York had officially prescribed any specific language in this particular prayer. The language contained in the majority opinion as it dealt with this particular case and this specific prayer was bad enough. The obiter dicta contained in the majority opinion went far beyond the facts in the case and in effect indicated that henceforth any prayer, regardless of its language, would be unconstitutional if conducted in schools, classrooms, or any public building.

A year later, in *Abington* v. *Schempp* 324 U.S. 203 (1963), the Supreme Court reaffirmed its prior decision in Engel against Vitale and used even stronger language prohibiting prayer, which serves as the basis for a long line of lower Federal court and State appellate court decisions in the years which have followed.

Public opinion following these two decisions became increasingly hostile to what was viewed by many people as an encroachment on the essential religious character of the American people. Many people, including me, thought that the courts had gone much too far, and they and I subscribe to the language of the dissenting opinion written by Mr. Justice Stewart which reads:

To deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.

Mr. Justice Stewart further stated:

The basic constitutional justification for permitting the exercise at issue in these cases (is that) a compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state created disadvantage.

At this point, Mr. Speaker, let me read the exact wording of the prayer which the Supreme Court struck down in Engel against Vitale—supra—which is popularly referred to as the New York Regents Prayer—NYRP—case:

Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country.

It is well to point out that this language was composed by a committee appointed by the board of regents, which committee consisted of a Jewish rabbi, a Roman Catholic priest, and a Protestant minister. Surely, they never dreamed that this language would offend the religious or other sensitivities of any human being; certainly it could not offend the sensitivities of any person who believes in a Supreme Being, or anyone who shares directly or indirectly in the religious heritage of this country.

Thereafter, it became very clear that the trend of the Supreme Court and of the lower courts, following the Engel and Abington decisions, would eventually result in efforts to abridge and prohibit the right of individuals and groups to pray publicly and perhaps privately, aloud and perhaps silently. About this time I and many of my colleagues realized that the only way to reverse the legal effect of these cases was by a constitutional amendment. Accordingly, I, and many other Members in the House of Representatives and the U.S. Senate, introduced—and, in succeeding Congresses, reintroduced—joint resolutions proposing an amendment to the Constitution for the express purpose of overruling the Supreme Court decisions in the Engel and Abington cases, and simultaneously to overrule lower court decisions which were based on those two Supreme Court cases.

Mr. Speaker, I signed the discharge petition presented by the gentleman from Ohio (Mr. WYLIE). Earlier today I voted to discharge the Judiciary Committee from the further consideration of House Joint Resolution 191. I strongly support it and shall vote for it.

Quite frankly and naturally, I prefer the language of the joint resolution which I introduced and which bears the number House Joint Resolution 73. I include at this point the text and language of House Joint Resolution 73:

H.J. RES. 73

Joint resolution proposing an amendment to the Constitution of the United States to permit voluntary participation in prayer in public schools

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Nothing contained in this Constitution shall prohibit the authority administering any school, school system, educational institution, or other public building supported in whole or in part through the expenditure of public funds from providing for or permitting the voluntary participation by students or others in prayer. Nothing contained in this article shall authorize any such authority to prescribe the form or content of any prayer.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

I prefer this language but I am not going to let a matter of semantics influence me to vote against the only resolution on which we have a chance to vote.

The debate today on this question is manifestly heated and controversial. It may be an accurate statement to say that it is the most controversial debate on the most controversial piece of legislation thus far in the 92d Congress. Even though the time allowed for debate is very limited, it appears to me to be one of the most controversial debates during my service in this body.

Mr. Speaker, I have very strong convictions on this subject. I have felt very strongly about it ever since I first read the news accounts and later the text of Engel against Vitale. As I thoroughly studied the language of the Engel case and as I later read and studied similar cases, these original strong feelings became intensified. I feel more strongly in support of this proposed amendment to the Constitution today than I have at any time since the decision in the Engel case was handed down in 1962.

During the 9 years which have intervened, I have probably discussed this line of decisions and the proposed remedy to these decisions with more people and in more places than any other single legislative proposal. My correspondence file on this subject goes back at least 9 years and there are expressions of support and of opposition to the proposed amendment from literally thousands of people, laymen and clergymen alike.

Most of the letters which I have received in opposition to the proposed Constitutional amendment indicated that the writer believes that the Supreme Court and other courts have outlawed only those prayers which are composed and conducted by governmental authorities and by employees of State and local governments. Many have expressed opposition solely because of the choice of the word "nondenominational" which appears in the language of House Joint Resolution 191. As I stated earlier, I now repeat that while I prefer the substantive language of my own joint resolution, I support House Joint Resolution 191 because I think the intent is the same. I hope that the amendment offered by the gentleman from Alabama (Mr. BUCHANAN) will be adopted and that the adoption of this amendment will remove some of the objections which have been raised to House Joint Resolution 191. I am not committed to my own language, and I will support the resolution before us regardless of the outcome of the vote on the Buchanan amendment.

Mr. Speaker, I can see nothing in any of this language which in any way violates either the letter or the spirit of the establishment clause of the first amendment. This language which I support in no way does violence to the principle of religious freedom or the principle of total separation of church and state. On the contrary, I think it guarantees freedom of religion which has already been abridged and encroached upon by the decisions in the Engel and Abington cases and in decisions of lower courts which are based on these two decisions.

I do not believe that the language which I support today could ever be construed as seeking to establish a religion by legislative action or to deny the right of freedom of religion to any person. All that we seek to do and all that the language of this proposed amendment says is that Americans, single or in unison with each other, in public or in private, may express their belief in a Supreme Being, invoke the blessing of Almighty God and reverently thank Him for the blessings which He has bestowed upon us.

Mr. Speaker there are many cases in the Supreme Court and in the lower State and Federal courts to which I could refer and quote from at length. Without quoting the language from all these decisions I will simply refer to them by name and citation:

1. *Engel* v. *Vitale*, 370 U.S. 421 (1962).
2. *Abington School District* v. *Schempp*, 374 U.S. 203 (1963).
3. *Stein* v. *Oshinsky*, 348 F. 2d 999 (1965) cert. den. 383 U.S. 957 (1965).
4. *Hunt* v. *Board of Education of County of Kanawha*, 321 F. Supp. 1263 (S.D.W. Va., 1971).
5. *Chamberlin* v. *Dade County Board of Public Information*, 171 So. 2d 535 (1965).
6. *Sills* v. *Hawthorne Board of Education*, 200 A. 2d 817 (Superior Ct. of New Jersey, 1963), aff'd 200 A. 2d 615 (1964).
7. *Adams* v. *Engelking*, 232 F. Supp. 666 (S.D. Idaho, 1964).
8. *Johns* v. *Allen*, 231 F. Supp. 852 (D. Del., 1964).
9. *Opinion of the Justices*, 228 A. 2d. 161 (1967).
10. *DeSpain* v. *DeKalb County School District*, 384 F. 2d 836 (1967), cert. den. 390 U.S. 906 (1968).
11. *Reed* v. *Van Hoven*, 237 F. Supp. 48 (W.D. Mich., 1965).
12. *American Civil Liberties Union* v. *Albert Gallatin Area School District*, 307 F. Supp. 637 (W.D. Pa. 1969), aff'd 438 F. 2d 1194 (3rd Cir., 1971).
13. *State Board of Education* v. *Board of Education of Netcong, New Jersey*, 108 N.J. Super. 564, 262 A. 2d 21 (1970), aff'd 270 A. 2d 413 (1970), cert. den. 39 L.W. 3437 (April 6, 1971).
14. *Sullivan* v. *School Committee of the Town of Leyden*, Mass. Super. Ct., Suffolk County, No. 91101 Eq. (March 31, 1970), reversed 267 N.E. 2d 226 (1971), cert. den. 40 L.W. 3164 (October 12, 1971).

Mr. FLYNT. Mr. Speaker, one of the most interesting treatments of this subject entitled "Let us Pray—An Amendment to the Constitution" written by Charles E. Rice, associate professor, Fordham University School of Law appeared in the Catholic Lawyer, Summer 1964. He says, and I quote:

Given the proclivity of the current members of the Supreme Court to adhere tenaciously to their own abstractions (which in religious cases have generally been born in gratuitous and self-generated *obiter dicta* in the Court's own opinion), and given the sweeping character of those reigning abstractions, *we may fairly expect the manifestations of our religious heritage in public life to be eliminated, singly but inexorably, by judicial decree.* (Emphasis supplied) only a constitutional amendment can be counted upon to check the trend, for the notion of judicial self-restraint seems to have fallen out of favor among the majority of the Court.

Mr. Speaker, for these and other reasons I support House Joint Resolution 191 and will so vote.

Mr. BUCHANAN. Mr. Speaker, I yield for purposes of debate only to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I want to associate myself with the remarks of the distinguished gentleman in the well and thank him for offering this amendment.

I believe those who spoke out so eloquently against the position of the gentleman from Ohio (Mr. WYLIE) can now support his constitutional amendment, if the amendment is adopted.

I would point out to the gentleman from Alabama that I am not concerned about the narrow holding of Engel versus Vitale. But I am concerned about the dictum contained in Engel versus Vitale which has apparently caused all of the difficulty among the lower courts.

The language in that case is this, and I wish to draw this to the attention of the Members of the House.

I quote from the language of the dictum in the case of Engel versus Vitale, which has caused all of the trouble in the lower courts:

Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitation of the establishment clause.

It is that dictum which has caused the lower Federal courts to actually interfere with freedom of religion. No person can read the lower court decisions without being concerned about interference with religion on the part of government. The first amendment certainly needs to be clarified.

Mr. Speaker, I commend the gentleman in the well and I support his amendment wholeheartedly.

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman for his contribution.

Mr. CELLER. Mr. Speaker, if the gentleman will yield, is it the gentleman's intention to yield a portion of his time so that opposition to his amendment can be heard?

Mr. BUCHANAN. It is my purpose to yield to the distinguished gentleman to discuss at length his feeling on this matter for a long period of time, but not at this moment.

Mr. Speaker, I yield to the gentleman from Texas (Mr. WHITE) for purposes of debate only.

Mr. WHITE. Mr. Speaker, I appreciate the opportunity to speak in behalf of this amendment.

I think it is imperative to change the word "nondenominational" to "voluntary" because it is difficult if not impossible to define nondenominational. It means different things to Christians, Jews, Mohammedans, and Buddhists, all of whom are in this country.

It would depend on which religious groups would gain control of the school boards, if we adopt the language presently in the resolution. Religions and denominations would be fighting over this definition, and we would have religious disharmony.

Mr. Speaker, if you say in this amendment that the right cannot be abridged to nondenominational prayer in public buildings, then very like it

can be interpreted that you cannot have a denominational prayer in a public building. This would affect the Armed Forces chaplains rendering religious services in public or military buildings.

If you say the right to nondenominational prayer cannot be abridged, then denominational prayer in the Congress might be attacked. In fact, you might even have problems about invocations and benedictions at Presidential inaugurations. Public schools could not have baccalaureate services in public buildings and private schools supported partially by public funds could not have denominational prayers even if they were denominational schools.

I had an experience just this weekend in which I spoke to a number of teachers, leaders, superintendents, and principals from throughout my entire district. I posed the question to them concerning this particular resolution and amendment as proposed.

Sixty-five percent favored the resolution and 35 percent did not favor the resolution. But when I suggested the possibility of changing the word "nondenominational" to "voluntary"—100 percent favored this change.

This is what most of America wants. They want voluntary prayer in their schools. They do not want confused language, such as the word "nondenominational" will afford.

Mr. BUCHANAN. Mr. Speaker, I will yield to my colleagues as best I can; and at this time I yield for purposes of debate only, if he seeks such recognition, to the distinguished dean of the House, the chairman of the Committee on the Judiciary, the gentleman from New York (Mr. CELLER) 15 minutes.

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I want to congratulate the distinguished gentleman who just spoke in offering the amendment, he is about to do in less than an hour what it took the First Congress of the United States in 1789 some 11 days of debate on the floor plus some 60 days of hearings in the committee to do. I refer to the First Congress treating with the problems of the first amendment. Obviously, we are a much smarter Congress. We can do it in 1 hour.

But I wonder whether we really can or not: when one talks about the word "voluntary," it appears to be an obviously simple word. When the gentleman from Alabama talked about the Prayer Breakfasts, those are voluntary—I have been there. I must confess I have missed more than I have been to, but I have been present more than most Members of the House or take the prayer in the House at noon—I understand that today there were some 30 Members present, a new high, for usually it is about 15 or 20—that is voluntary.

But is it voluntary when you talk about the child who must be in school because of compulsory attendance law and must stand there in silent prayer or not praying as he or she wishes. What about a pupil at the age of 6 or 7, and everyone knows what great discretion and judgment they have at that age—is that the same kind of "voluntary" action that you speak of when you talk about the House prayer, or the House Prayer Breakfast?

Take the word "meditation." I confess that when I first went to look up the word, I thought it meant silent prayer. But, ladies and gentlemen, it does not mean silent prayer. It means lots of things, but there is no connotation of silent prayer. Obviously, it is some other kind of exercise other than prayer. Does that mean that when we include meditation, we exclude chanting, we exclude reading, we exclude worshop? Does that mean we exclude all the other myriad synonyms and counterparts of praying or meditation?

Finally, Mr. Speaker, let me ask this: If this is to be something other than nondenominational—because the legislative history will be very clear that we have struck out "nondenominational"—the only thing that I know that is other than nondenominational is denominational, and we are then back in that same box that religious scholars and constitutional lawyers have pointed to for years: Whose denomination is going to choose the prayer?

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I take this time for the purpose of asking a question of the gentleman from Alabama, who is the author of the amendment. I would like to set a scene and ask the gentleman how a prayer situation might occur. The scene might be in any public school built with public funds. There are children present, and there is a desire on their part to pray. Under the gentleman's amendment, what prayer would they say?

Mr. BUCHANAN. The prayer under my amendment would be voluntary, as to the nature of the prayer and as to who participated in the prayer. That is the reason for the verbiage "voluntary prayer," not "voluntarily in prayer," but voluntary prayer.

Mr. RHODES. In other words, it would not be a prayer prescribed by the State, by the principal of the school, by the teacher, or by any outside authority?

Mr. BUCHANAN. Absolutely not. That is not my intention.

Mr. RHODES. Would it then be a prayer which would come from the body, a group of students?

Mr. BUCHANAN. It is voluntary prayer, voluntarily participated in.

Mr. RHODES. If one of the students did not desire to pray, then would the group lose the identity of voluntarism? In other words, is it necessary for all students present to desire to pray——

Mr. BUCHANAN. It is not my intention to impose the predilections of one child upon the entire class of children or those of the entire class of children upon the one child.

Mr. RHODES. Mr. Speaker, in my hometown children are praying in school. They always have prayed in school and I assume they probably always will. The child himself who is in charge of the assembly is the one who prays, he prays what is in his heart without prescription or influence from anyone. There is no prescription of prayer, and there has been no question raised as to whether or not this is proper.

I probably will vote for the amendment offered by the gentleman from Alabama, because I think the word "voluntary" is much more meaningful than the word "nondenominational," and less subject to misinterpretation and mischief. I suggest the possibility—in fact, the probability—that as far as my own examination of these cases is concerned, if we pass this amendment, as it is sought to be amended by the gentleman, I think we will be restating the law of the land as it now is. It should be evident in any fair reading of the case of Engel against Vitale, that it allows voluntary prayer by students who are praying in accordance with their own consciences in the manner described by the gentleman from Alabama, without coercion or prescription from any one. I am at a loss to know how the lower courts can construe the Supreme Court's meaning in any other way.

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. Mr. Speaker, is the gentleman familiar with the case involving Massachusetts court decision which stated that no part of a school may be set aside for voluntary prayer and the Supreme Court, in effect, affirmed this by refusing to hear the appeal?

Mr. RHODES. I am, and I am also familiar with the decisions of the Illinois State Court in the De Kalb County case. I believe the lower courts were wrong in both instances, and I hope the Supreme Court in the near future will set this very straight.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. GALLAGHER).

Mr. GALLAGHER. Mr. Speaker, since I do not have the floor to offer an amendment under the House rules, I would ask the gentleman from Alabama if he would accept my proposal as part of his amendment. If he could, then I and many of my colleagues could in good conscience support the proposal to allow prayer in our public schools.

I feel that my thought may well give us a way to act constructively without doing damage to either the Constitution or to what I would regard as the necessity most Americans find to have prayer a part of our Nation's public life.

My amendment would provide for silent prayer or meditation and would eliminate the word "voluntary." For we must ask ourselves who is going to volunteer the prayer in which some children will join and some may abstain. The real problem with "voluntary" is that it requires a positive act of abstention by the child, while providing a moment of silent prayer or meditation at the start of each school day makes the decision solely internal; that is, one restricted to the conscience of the individual with no visible manifestation of his decision.

My proposal would require no prescribed prayer and would totally eliminate the stigma of nonconformity. It neither subtly compels or overtly denies the child the right to pray in his own way. It escapes the difficulty of the word "nondenominational," because many people feel strongly about their own denomination.

Here again, we can return the power to the people in a responsible and constructive way. The manner in which a prayer can be offered will be the manner the child has been trained to do so by his parents or his church. Those who do not wish to acknowledge the Creator may meditate, think about their homework, or even silently praise Madlyn Murray O'Hare, who started much of the reason for this discussion in the first place. Perhaps the last frontier for privacy in this Nation is inside the individual's head; here we can allow that sacred area to remain sanctified and if praise of God is sincerely expressed or sincerely denied, we will run no risk of having public authorities intrude on private places of the spirit.

Finally, Mr. Speaker, the decision not to participate would require no formal action by the child. He cannot be coerced into participating in actions repugnant to him, nor does he run the risk of being labeled an "odd-ball" because his parents or his church have a different way of expressing their devotions. He stands silently at the moment of meditation; indistinguishable from his classmates, subjected to no instant coercion or later abuse.

I believe my thought offers a way out of the cruel dilemma we must face here in the House today and perhaps even more important, it will not divide people and their children on the grounds of the manner in which they pray.

I would hope that the gentlemen would accept this suggestion.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker—

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . .

These words of the first amendment to the Constitution have stood for 180 years as a mighty barricade against the religious oppression and strife that have torn apart other countries.

Anyone proposing to change the principles embodied in our Nation's charter of freedom bears a heavy burden. Yet, today, the House of Representatives has been asked to vote on just such a proposal.

The vehicle for this attack on the Bill of Rights is House Joint Resolution 191, introduced by Congressman CHALMERS WYLIE, Ohio. Many persons have been led to believe that all this amendment would do is "reaffirm" the right to pray in our public schools. If this were the case, I would support the amendment. I support the right of students to pray together in school, if the prayer is truly voluntary. But I oppose compulsory school prayer.

The Wylie amendment would actually forbid truly voluntary prayer, for voluntary prayer necessarily reflects the particular faith of each individual, and the Wylie amendment forbids all but "nondenominational prayer." Under the Wylie amendment, students could not pray any prayer they want to, because they might pray a "denominational prayer."

The CONGRESSIONAL RECORD is already full of statements submitted on behalf of many of the leading national church organizations opposing the Wylie amendment. In the 14th District of Ohio, the Central Board of the Council of Churches of Greater Akron, representing most of the Protestant churches in the Akron metropolitan area, have adopted a very carefully thought-out and superbly expressed statement on prayer in the public schools. Among other things, the statement points out that—

> To facilitate, assign, or stipulate . . . religious exercises as integral parts of the public school program is to infringe upon the distinctive beliefs of religious persons as well as on the rights of the irreligious.

What is the occasion for this unprecedented assault on the Bill of Rights? The Supreme Court has not held that the first amendment prohibits voluntary prayer in public schools. What it has prohibited is the official government sponsorship of prayers in school or the offering of prayers under circumstances that may lead to the coercion of those who do not desire to participate.

In Abington School District against Schempp, Justice Potter Stewart dissented from the Supreme Court's decision, saying:

> A compulsory educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. (374 U.S., p. 313)

In an effort to meet the issue raised by Justice Stewart and to clarify the effect of the first amendment as it applies to the use of public buildings for purely voluntary prayer, I have introduced a proposed constitutional amendment which would authorize voluntary participation in prayer in public buildings when such prayer is not part of and does not occur in the course of activities for which such building is primarily used.

After many efforts at drafting a suitable amendment, I am conscious of the great difficulties and dangers in such an effort. However, my resolution will be referred to the Judiciary Committee, where it will undergo the kind of searching scrutiny that is essential to produce sound legislation.

Now, however, without any time for the House or the country to reflect on its implications, we have the Buchanan amendment to the Wylie amendment, substituting the word "voluntary" for the word "nondenominational." It might seem to be a simple way of clarifying and improving the Wylie amendment. Unfortunately, the problems of drafting a constitutional amendment cannot be disposed of in such an offhand manner.

Mr. Speaker, I would like to quote from the dissenting opinion of Justice Potter Stewart in Abington School District against Schempp, in which he was concerned with the possibility of coercion even with the kind of excusal that the gentleman who preceded me just mentioned:

> Certain types of exercises would present situations in which no possibility of coercion on the part of secular officials could be claimed to exist. Thus, if such exercises were held either before or after the official school day . . . it could hardly be contended that the exercises did anything more than to provide an opportunity for the voluntary expression of religious belief.

There is nothing in the proposed Buchanan amendment that would permit this kind of careful safeguard against any compulsion or coercion.

I tried to draft and finally submitted an amendment to permit voluntary prayer. It took me weeks of thought and consultation and study. It cannot be done "off the cuff" on the spur of the moment. This is not the way to revise the Constitution of the United States after 1 minute of time was remaining for debate. The country and this House ought to have the opportunity, I submit, to consider the implications of this kind of amendment.

I assure you, gentlemen, the implications are very great. The mere substitution of the word "voluntary" does not explain what is meant by voluntary, what circumstances and conditions you are going to put down to protect children from coercion.

Justice Stewart himself, in the passage I read from his dissent, pointed out the importance of carefully working out the conditions and limitations under which school children could be subjected to prayer in school buildings. I submit this is not the way to be amending the Constitution. We would deserve the reproach of all the people of this country if, after only 1 hour of debate, we tried to do what it took the Founding Fathers many weeks to do.

We should oppose both the Buchanan amendment and the Wylie amendment.

I will oppose the Wylie amendment and the Wylie amendment as amended by the Buchanan amendment. Both are in my opinion, dangerously misguided efforts to do that which the Founding Fathers wisely rejected; that is, giving the state the right and responsibility for propagating religion. The propagation of religious faith must remain the responsibility of individual adherents and their religious organization. To bring government in on their side can only lead to oppression, conflict, and disaster.

The text of my proposed amendment, contained in House Joint Resolution 953, follows:

HOUSE JOINT RESOLUTION 953

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which will be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE ——

"SECTION 1. Nothing contained in this Constitution shall abridge the right of any person, while present in any building, the construction or operation of which is supported in whole or in part through the expenditure of public funds, to participate in religious prayer when all participation therein is voluntary and such prayer is not part of and

does not occur in the course of the activities for which such building is primarily used. For purposes of this article, participation of a person under the age of eighteen shall be deemed voluntary if done with the knowledge and consent of his or her parent or legal guardian.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Washington, Mr. MEEDS.

Mr. MEEDS. Mr. Speaker, succumbing to temptation has been a human failing since Eve encountered the serpent. Today the House will consider a bill that is very, very hard to reist. I will vote against it.

House Joint Resolution 191 would change our Bill of Rights for the first time in history. It centers on the highly controversial question of prayer in the public schools. The measure reads as follows:

Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

The bill would nullify the Supreme Court decisions of the early 1960's on prayer and Bible readings in class. These decisions have been misunderstood. The rulings did not infringe on the freedom of religion; they merely said that government and its officials cannot require prayer or religious exercises.

Neither the decisions of the Supreme Court nor House Joint Resolution 191 have any effect on Washington State. Article I, section 11 of our State constitution specifies that—

No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction.

Passing the proposed amendment to the U.S. Constitution would not change our law that forbids reciting prayer in class.

The issues involved in House Joint Resolution 191 are monumental. They go to the heart of our American system and challenge the entire rationale of the Bill of Rights. The first amendment that projects religious freedom was written by men who had seen and deplored the terrible persecutions in Europe and the establishment of mandatory faiths. The Founding Fathers created a wall between church and state.

The first amendment requires Government to be absolutely neutral in religion. Government cannot favor one faith and disparage another; it cannot force men to adhere to beliefs; it cannot infringe on religion nor transgress the conscience of any citizen.

House Joint Resolution 191 permits prayer that is "nondenominational." Yet 38 national religious groups have issued a statement saying that no one can agree on the definition of "nondenominational." These groups strongly oppose the amendment. Included are the United Methodist Church, the Episcopal Church, various Baptist faiths, the United Presbyterian Church, and the Lutheran Church of America.

Unlike Senator Dirksen's bill of 5 years ago, nothing in House Joint Resolution 191 forbids Government from drawing up and requiring a specific prayer. And, even though "voluntary" is doubtful in practice, the amendment does not contain even this protection.

Should Congress adopt the amendment, we would witness the spectacle of school boards and legislatures across the land fighting bitterly over this or that prayer. New elections and new officials would bring new prayer disputes. As Judge Stacy of the North Carolina Supreme Court once wrote:

Men contend more furiously over the road to heaven, which they cannot see, than over their visible walks of life.

Unwise, unnecessary, unhealthy, that is my view of House Joint Resolution 191. Prayer is a personal communication between man and his Supreme Being prayer is private. It belongs in the church, in the home, in the soul. Prayer has no place in the realm of public policy.

Mr. MEEDS. Mr. Speaker and Members of the House, I submit that this amendment is more mischievous than the original resolution. By striking the word "nondenominational" the legislative history will now be that denominational voluntary prayer will be allowed

I submit that school boards in certain instances under this language are going to construct denominational prayer which can be participated in or not by children because of the use of the word "voluntary."

As the previous speaker pointed out, young children will be forced, in effect, to stand in a corner with a dunce hat if they do not participate in the prayer.

The worst part of it is that striking the word "nondenominational" opens it up for denominational prayer. This is precisely what the constitutional prohibition is aimed at.

The SPEAKER. The gentleman from New York has 4 minutes remaining from the time yielded by the gentleman from Alabama.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Speaker, this amendment is a mischievous one. Who is going to determine the "voluntary" part? What does the "voluntary" part mean?

According to the author of the original amendment, the school board is. This confuses the whole question. This makes it worse.

And then you are going to put in the word "meditation," for prayer or meditation. The gentleman who spoke previously put his finger on it. It is going to become a denominational prayer. Then we will really be in trouble.

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

Mr. SCHWENGEL. No; I have only a minute to speak. I want to talk the rest of the minute.

The opposition has, apparently, 15 minutes of the hour. How unfair. How unfortunate. We are trying to legislate here on the House floor on this important question, to amend the Constitution of the United States. I call on Members to reflect on our history and our heritage, and the work put in by our forefathers. They would not buy this.

Mr. CELLER. Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, on the floor of the House now we are asked to substitute new words with new meanings, with their own nuances, added to the original resolution, without benefit of any exploration, without benefit of the vigorous arguments pro and con which have gone on in recent weeks.

Now we are being asked to play fast and loose with the Constitution of the United States. We are asked to interject the word "voluntary" and to interject the word "meditation" into the pending resolution.

What, in the context of this legislation, is voluntary? Is the choice made by the child voluntary when he selects between a prayer composed by a school board or other authority and a prayer that is a part of his parents' creed? Is the child's choice voluntary when he asks to be excused from (to him) an often alien prayer before the accusing eyes of his schoolmates?

Meditation. Who orders the meditation? For what duration? Some authority must coordinate. If it does, it interferes with prayer; it interferes with religion; it is equivalent to State interference, which is abhorrent and should be abhorrent to all of us.

For those who say "What harm can it do?" I can only say that it robs prayer of its meaning. If our Government were theocratic in form, with but a single official State religion, then a prescribed prayer by authority of the state church would be understood, but, fortunately, in this democracy of ours, freedom of creed and conscience and our religious liberty are guaranteed.

Frankly, these words will cause a dwindling of prayer: in Harlem, N.Y., it will be one type of prayer; in Salt Lake City it will be another; in some parts of the ghettos in Brooklyn, N.Y., whence I come, it will become a Jewish prayer; in certain sections, maybe in Boston or elsewhere, it will become a Catholic prayer; and in other places it may become a Protestant prayer. Let us not fool ourselves: These words can mean a great many things, depending upon who is in authority and who has the power; and who has the power can make these words mean anything that they please.

The SPEAKER. The time of the gentleman has expired.

Mr. BUCHANAN. Mr. Speaker, for purposes of debate I yield the gentleman 3 additional minutes.

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

Mr. CELLER. I yield to the gentleman.

Mr. DRINAN. Mr. Speaker, I want to associate myself with the remarks of the distinguished dean of the House and say very categorically that this amendment is much more insidious than the original proposal.

This amendment deletes "nondenominational." "Voluntary" is substituted for it. But "voluntary" is not the opposition of "denominational." We must assume, therefore, that every sectarian

prayer or meditation and prayer, which are not really different, is now authorized under the amendment. There is much more reason to oppose the amendment than the original proposal.

Mr. CELLER. Mr. Speaker, I yield to the gentleman from New York (Mr. REID).

Mr. REID of New York. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the bedrock principle upon which the first amendment was founded is the total separation of church and state and the complete noninvolvement of the state in religious exercise.

The proposed amendment to the Constitution now before us does violence to this fundamental principle, because it necessarily involves the state in the sponsorship of a religious exercise. This is true whether the language reads "nondenominational prayer" or "voluntary prayer or meditation." In either case, the state would be involved in the writing of a prayer, the furnishing of classroom space, the designation of a period for prayer during official school hours, or similar activities by which the state gives positive sanction and encouragement to a religious exercise. This would constitute a definite break in the wall of separation between church and state that should and must be maintained.

Moreover, to say that because the prayer would be voluntary and no child would be compelled to participate is to ignore the fact of peer pressure which will inevitably influence a youngster. If a majority of students chose to participate in a voluntary prayer exercise, there would surely be great pressure on the minority to conform. As the Supreme Court of Wisconsin said in the case of Weiss against District Board in 1890:

> When . . . a small minority of the pupils in the public school is excluded for any cause from a stated school exercise, particularly when such a cause is apparent hostility to the Bible which a majority of the other students have been taught to revere, from that moment the excluded pupil loses caste with his fellows, and is liable to be regarded with aversion and subjected to reproach and insult.

For a school to sponsor a period of voluntary prayer during official school hours and using school facilities would be, in effect, to subject a child to this kind of compulsion. This is something a state should not be permitted to do.

Not only is the proposed constitutional amendment unwise for the reasons just stated, but it is a dangerous precedent for future erosions of the protections which the first amendment was designed to guarantee. Those who favor this amendment should recognize that it places a foot in the door and makes it easier to justify further alterations of the Constitution when some group dislikes a particular Supreme Court decision. The Bill of Rights is a lasting document, and it should not be changed on an ad hoc basis in response to isolated rulings of the courts. Needless to say, those who today favor amending the Constitution may well oppose its being amended in the future on some other issue, yet their action today would make future amendment easier because of the precedent that would be established. Likewise, if we today allow the Government's foot to be inserted in the door of the church, we could well be unwittingly paving the way for even greater and more threatening intrusions by the Government into religious affairs.

We are a religious nation. I believe that more prayer in our homes and in our churches would help our society. But Government sponsorship of prayer would not help prayer, which in my view is a personal and an individual experience. We all know that Government is good at some things and bad at some things. Prayer, in my view, would be better left to the family in the privacy of their homes and in the churches.

Accordingly, I urge the defeat of Mr. BUCHANAN'S amendment and of the original amendment of Mr. WYLIE on the grounds that, in the words of the distinguished Prof. Philip D. Kurland:

> At best, the proposed amendment invites state-imposed religious dogma and religious strife; at worst, it assures them.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, it has been asserted that the proposed amendment is to be wholly voluntary in its application and would be so interpreted by those in charge of tax-supported public buildings.

This assertion cannot withstand commonsense scrutiny.

At the outset, it must be conceded that the "public buildings" here involved are primarily intended to be public schools. This is widely regarded as the school prayer amendment and, if ratified, it will be so applied. That it reaches public schools is essential to the sponsors of the amendment. For example, if the proposal were amended so as to apply to all public buildings other than schools, the support for this amendment would rapidly evaporate.

Since it is obviously aimed at the public schools, we should concede with candor that the amendment is aimed primarily at young and impressionable children who are compelled by State law to assemble there. One should question the voluntary nature of a child's judgment. If the proposal before us were limited to young adults in attendance at secondary and college level institutions, surely support for this amendment would likewise wane.

Finally, we should admit that wholly voluntary prayer in schools does not serve the purpose of the sponsors of the amendment. For example, if prayers were restricted to Saturday morning, for instance, a time when attendance at school is not normally compelled and thus participation would be more apt to be voluntary, the sponsors would lose interest in the amendment.

Moreover, let us be frank to admit that to "participate in nondenominational prayer" is intended to mean that a prayer shall be conducted for the participants by a teacher. Again, if the proposal were amended so as to be limited to silent, self-conducted prayer or meditation, it would rapidly lose its appeal. Many a devout parent has reason to be suspect of truly voluntary prayer. They know how difficult it often is to get their children to attend Sunday school "voluntarily" or to reflect upon man and his relationship to God without a measure of parental coercion.

True voluntary prayer is contrary to the purpose and objective of this amendment. No amount of rationalization can disguise the central purpose of the amendment: to enlist the aid and assistance of the Government in order to expose young and impressionable minds to a religious experience because in the view of the majority they will profit from that experience.

To give realistic meaning to the word "voluntary" would deny to Government and its agents the power to select the content or form of the prayer and power to conduct the prayer once selected. Properly interpreted, "voluntary" would so remove the prayer in time and space from the place where children must be as to obliterate the hint of official sanction or peer pressure because of nonparticipation. In short, the purpose and objective of the amendment's backers would be utterly frustrated and this painful legislative exercise reduced to a nullity.

But whether a prayer is genuinely voluntary or not, does not reach the establishment question.

If the debate surrounding this proposal means anything at all, it stands for the proposition that the establishment clause is to be modified to remove the neutral position of Government between those who profess a religious belief and those who do not; and to place Government solidly on the side of theistic religious belief. This is a substantial departure from the current trend and has implications far beyond sectarian exercises in schools.

The impact of the amendment upon the establishment clause raises fundamental questions concerning the proper relationship between church and state. Many would doubtless support legal recognition and encouragement of our Judea-Christian heritage, even at the expense of minor nontheistic beliefs or a relatively few agnostics. Others would deplore the implicit limitation on personal freedom which is involved when Government becomes a partisan in religious exercises.

Given the choice which confronts us, I urge that we act so as to persevere on our present course and that the wall between church and state remain intact. The change proposed extracts an enormous price in loss of freedom for the uncertain benefit of young children reciting by rote an empty, nondenominational prayer, whether voluntary or not.

Mr. BOLLING. Mr. Speaker, will the gentleman from Alabama yield?

Mr. BUCHANAN. Not at this point.

Mr. Speaker, how much time do I have remaining?

The SPEAKER. The gentleman from Alabama has 25 minutes remaining.

Mr. BUCHANAN. Mr. Speaker, for the purpose of debate only I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, the gentleman from Arizona (Mr. RHODES) pointed out the fact that prayers are being said

in high schools in Arizona at the present time, and prayers are being said in the schools of Columbus, Ohio, at the present time. It is only because no one has objected.

This issue was raised in the Netcong case in New Jersey where students met before school took up in the morning, as I pointed out, and read the prayer of the chaplain from the CONGRESSIONAL RECORD. The Supreme Court of New Jersey held that was an unconstitutional practice based on the Engel case.

Mr. Speaker, the gentleman from Ohio (Mr. SEIBERLING) referred to Justice Stewart and he said some words about Justice Stewart. With reference to Justice Stewart's dissenting views he said:

> With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an "official religion" is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these schoolchildren to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.

Mr. Speaker, I know that many of you are not happy with the word "nondenominational." I have discussed this matter with most of you, and it is my considered judgment that this resolution has a better chance of passage, excluding the word "nondenominational."

Mr. Speaker, based upon the communications I have received from church leaders, I feel that the rejection of House Joint Resolution 191 by this House would have a far more serious impact on this Nation than the Supreme Court decision in 1962.

Mr. Speaker, for these reasons I am respectfully urging the Members of this body to vote for the amendment and then vote for House Joint Resolution 191, as amended.

Mr. BUCHANAN. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BOLLING) for the purpose of debate only.

Mr. BOLLING. I thank the gentleman from Alabama.

Mr. Speaker, it is absolutely inconceivable to me that the House of Representatives will adopt an amendment to an amendment setting in order an amendment to the Constitution in a matter of a few minutes debate.

I happen to believe very strongly that the Wylie amendment should be defeated, but it clearly has the merit of having been around long enough for everyone to look at it.

I must respectfully submit that I cannot conceive of a worse disaster than the United States of America and its people knowing that the process of amending the Bill of Rights was initiated by the House of Representatives in a debate of less than an hour.

Mr. BUCHANAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. EDMONDSON) for the purpose of debate only.

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

Mr. Speaker, I, personally, support the amendment which has been offered by the gentleman from Alabama to change the word "nondenominational" to "voluntary" and to add the words "or meditation." I believe it strengthens and improves the amendment.

I do not think we need to be apologetic or ashamed of the fact that we undertake to improve upon the language, when this matter is debated carefully on the floor of the House. I think we have had a careful and a thoughtful debate of this up to this point.

I am concerned personally about the fact that there apparently still could be some question about the role of the Government because the gentleman from New York (Mr. CELLER) and the gentleman from Washington (Mr. MEEDS) have both expressed the fear and the apprehension that school boards might be entering the picture to decide what was going to be done in the way of prayer. I repeat again my plea to the author of this amendment to accept additional language which would provide:

> Nothing in this article shall be construed to enable or empower any public official or governmental authority to direct or prescribe the form, content, or scheduling of such prayer.

I wonder if the gentleman after some further thought on this question could now state his more thoughtful conclusion about this additional language.

Mr. BUCHANAN. I will say to the gentleman that it is my conviction and it is my intention that the purpose of his language is served by the present amendment. And I do not entertain any idea or any other interpretation of the amendment as offered, and as I hope it will be voted upon.

Mr. EDMONDSON. Does the gentleman feel that the use of the phrase "voluntary prayer or meditation" precludes any role by a school board or a school official in connection with the prayer said?

Mr. BUCHANAN. That is my intention.

Mr. EDMONDSON. And this would also preclude any State official or any other official?

Mr. BUCHANAN. Yes, that is my intention.

Mr. EDMONDSON. I thank the gentleman.

Mr. BUCHANAN. Mr. Speaker, for the purpose of debate only, I yield 5 minutes to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, I support the proposed constitutional amendment which would permit nondenominational and/or voluntary prayer in our public schools, and urge the adoption of House Joint Resolution 191. There are three reasons why I endorse the amendment: The Supreme Court erred in its interpretation of the first amendment as it applies to prayer in school, the Congress has a constitutional responsibility to give the people an opportunity to decide this specific issue, and the proposed amendment deserves approval on its merits.

We mean no disrespect to the Supreme Court when we disagree with its decisions in the New York case—Engel against Vitale—decided on June 25, 1962, and the Pennsylvania and Maryland cases—Abington Township against Schempp, and Murray against Curlett—decided on June 17, 1963. I hold the Court in highest esteem. I am proud of our Federal judiciary, but no judge and no court is infallible. Eminent jurists and scholars of the law do disagree on many legal issues and constitutional questions.

Seven Supreme Court Justices participated in the New York case. Five agreed with the majority opinion; one wrote a concurring opinion, and Justice Potter Stewart dissented. Nine Justices took part in the Pennsylvania and Maryland cases. Four joined in the majority views; there were two separate concurring opinions and a third concurring opinion by two Justices, with Justice Potter Stewart again dissenting.

I have always believed that the opinions of Justice Potter Stewart are sound in their interpretation of the first amendment and express a public policy which can and should be endorsed.

Justice Stewart stated in the New York case:

> The Court says that in permitting school children to say this simple prayer, the New York authorities have established "an official religion." I cannot see how an "official religion" is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish to these children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation.

It is interesting to note that Justice Douglas agreed with Justice Stewart in the New York case when he said:

> At the same time I cannot say that to authorize this prayer is to establish a religion in the strictly historic meaning of those words. A religion is not established in the usual sense by letting those who choose to do so say the prayer that the public school teacher leads.

That from Justice William O. Douglas, and I think his words bear noting today as we vote on this amendment. I must add, however, that Justice Douglas found the use of prayer unconstitutional on different grounds.

The proposed amendment before us today is not compulsory. No one is required to participate in any prayer in a public school. The prayer, if said, will be nondenominational and voluntary. The Supreme Court erred in holding such prayer unconstitutional and we must help correct the error. Again let me quote from Justice Stewart's dissenting opinion in the Maryland-Pennsylvania cases:

> In the absence of coercion upon those who do not wish to participate—because they hold less strong beliefs, other beliefs, or no beliefs at all—such provisions cannot, in my view, be held to represent the type of support of religion barred by the Establishment Clause.

I agree with Justice Stewart that the Supreme Court should not have found unconstitutional prayer and similar religious exercises in the public schools. He was right when he wrote in the Maryland-Pennsylvania cases:

> The choice involved, however, is one for each community and its school board, and not for this Court. For, as I have said, religious exercises are not constitutionally invalid if they simply reflect differences which exist in the society from which the school draws its people. They become constitution-

ally invalid only if administration places the sanction of secular authority behind one or more particular religious or irregular beliefs.

In my judgment, Justice Stewart is correct and the prevailing opinion of the Court on prayer should be set aside through constitutional amendment.

The proposed constitutional amendment before us today adopts the Stewart doctrine. It would permit prayer in the schools with the local authorities deciding whether and how the prayer should be conducted. It adopts the principles set forth in Justice Stewart's concluding paragraph in the Maryland-Pennsylvania cases where he said:

What our Constitution indispensably protects is the freedom of each of us, be he Jew or Agnostic, Christian or Atheist, Buddhist or Freethinker, to believe or disbelieve, to worship or not worship, to pray or keep silent, according to his own conscience, uncoerced and unrestrained by government. It is conceivable that these school boards, or even all school boards, might eventually find it impossible to administer a system of religious exercises during school hours in such a way as to meet this Constitutional standard—in such a way as to completely to free from any kind of official coercion those who do not affirmatively want to participate. But I think we must not assume that school boards so lack the qualities of inventiveness and good will as to make impossible the achievement of that goal.

Mr. Speaker, whether we think the Supreme Court erred or not, I believe we have not only the right but also the duty to permit the people to decide this question. It is well to remind ourselves that in any consideration of a constitutional question by the courts, the judges are doing more than simply interpreting the words of the Constitution; they are expressing in their decisions public policy. Because this is true and because the fathers of the Constitution set up a system of checks and balances, provision was made in the Constitution to override decisions of the Supreme Court in a legal and constitutional manner.

In its wisdom the Court has so interpreted the first amendment to the Constitution as to bar the use of prayer in the public schools. We in the Congress have the responsibility of examining that interpretation and expression of public policy to determine whether it should stand or be overruled. This is in the best traditions of the American way wherein sovereignty rests with the people.

We have heard often that "The Constitution is what the Supreme Court says it is." But the Constitution belongs to the American people and not to the Supreme Court. When there is overwhelming opposition to a significant Supreme Court decision, the Congress owes it to the American people to examine that decision and to give the people an opportunity to pass on its merits. This we must do today.

Since 1962 and 1963 all of us have received hundreds of letters and petitions in opposition to the Court's decision. Members of Congress have introduced scores of resolutions on the issue. The legislature of my State of Michigan in 1964 adopted a resolution respectfully requesting the Congress to propose an amendment to the Constitution of the United States or to call a convention to add to the Constitution an article providing that "the free exercise of religion shall include the right to offer prayers in public schools."

There is great public interest in this subject. There is a demand for overruling the Court's decision. I think we should submit this proposal to the people so that through the establised process, the people may exercise their sovereign right to mold constitutional law.

We are told that we should not tamper with the first amendment. I submit that the Supreme Court has tampered with the first amendment and that we must help undo the damage done by the Court. From 1791 until 1962, the first amendment did not bar prayer in the public school. In 1962 the Supreme Court ruled otherwise. What we are asked to do in House Joint Resolution 191 is to restore to the American people a right they had under the first amendment from 1791 to 1962, a right taken from them in 1962 by the Supreme Court.

Those of us who believe in the sovereignty of the people should have no hesitancy in submitting to them a proposed constitutional amendment on a significant issue in which there is great public interest. We trust the people; they have elected us. By what logic can we deny them the opportunity to decide this issue?

Mr. Speaker, I believe in the third place that this proposed constitutional amendment deserves approval on its merits. I have referred to the fact that religion is closely identified with our history and government. May I emphasize that this amendment will only authorize to be done in the schools what we do in this House at the opening of each daily session.

In a time when there is general concern over the state of morality and ethics in our country, we ought to promote those policies which uplift and inspire. The Supreme Court agrees that:

We are a religious people whose institutions presuppose a Supreme Being" (343 U.S. 306, 313). Our Constitution should encourage, not discourage that concept. Justice Arthur Goldberg in his concurring opinion in the Pennsylvania-Maryland cases recognized the importance of this when he wrote, "It is said, and I agree, that the attitude of the state toward religion must be one of neutrality. But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that non-interference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it.

To insist that the Constitution prohibits prayer in school destroys the "neutrality" of government in this sphere. Again may I endorse what Justice Potter Stewart wrote in the Pennsylvania-Maryland cases:

A compulsory state education system so structures a child's life that if religious exercises are held to be impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

The constitutional amendment proposed here today does not establish a religion but it does permit the free exercise thereof. The amendment would make the Federal Government truly neutral with respect to religion. Furthermore, the adoption of this amendment will confirm the American people's determination to emphasize the place of religion and the spiritual in the life of our Nation.

Mr. Speaker, I urge approval of House Joint Resolution 191 and the proposed constitutional amendment to permit nondenominational and/or voluntary prayer in the public schools.

Mr. BUCHANAN. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. YOUNG) for purposes of debate only.

Mr. YOUNG of Florida. Mr. Speaker, in the debate this afternoon opponents of the prayer amendment have spoken eloquently in their opposition but I fear that much of their debate could polarize religions and could even set one against the other.

From their arguments you might be convinced that something awful would happen to you if you were exposed to the prayers of another denomination. Mr. Speaker, it has been my privilege to attend many programs of denomination and religions other than my own and I can report today that I have suffered no ill effects of such exposure. My children have also enjoyed similar exposure and they too have suffered no adversity. So I say that arguments that would pit one religion against another even unintentionally are ill advised.

Mr. Speaker, I hope that arguments of that devisive nature would be set aside—I hope that this Congress will respond to the will of the vast majority of Americans—I hope that this Congress will this day approve the prayer amendment so that our children will once more know that their Government is still "One Nation Under God."

Mr. BUCHANAN. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. GALLAGHER) for purposes of debate only.

Mr. GALLAGHER. Mr. Speaker, I might say that the United Nations these days do not agree on very much, but they do agree to begin each session of the General Assembly with a minute of silent prayer or meditation—unanimously. Therefore, I would hope that we could follow that precedent which works so well.

In this way we who wish to pray would be allowed to do so in the privacy of our mind at a time designated for such a silent prayer or period of meditation. I cannot support the gentleman's amendment as it stands but I and many of my colleagues would support the amendment if it were changed to a minute of silent prayer or meditation each day.

Mr. BUCHANAN. Mr. Speaker, I yield, for purposes of debate only, 2 minutes to the gentleman from North Carolina (Mr. LENNON).

Mr. LENNON. Mr. Speaker, let us turn back to the year 1962. What was the moral attitude of the young people prior to 1962? Permissiveness? Sex? Pornography? What has happened since 1962? Anything is worthy of change that would better the conditions and make them better than what they are today and better the attitude of our young people.

I do not believe that any fairminded, knowledgeable person today would say that the attitude of young America today is greater than it was prior to the decision in 1962.

Now what has happened in my State? There are 153 school boards. Each one of those 153 school boards have that many different attorneys representing them. The dictum and the opinion in the 1962 decision has led two-thirds of those lawyers to advise those school boards that voluntary prayer even is not permitted in schools.

Nothing could be worse than the conditions today. I prayerfully hope that we will adopt the amendment and then the resolution and then let the legislatures, that are the most direct representatives of all the people, three-fourths of the sovereign States, resolve this question.

But let us do our duty here today and pass this resolution.

Mr. BUCHANAN. Mr. Speaker, I yield myself 2 minutes.

The SPEAKER. The gentleman from Alabama is recognized.

GENERAL LEAVE

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on this subject.

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

There was no objection.

Mr. TERRY. Mr. Speaker, before us this week is a proposed constitutional amendment which I believe few of us 10 years ago would have thought necessary. But in two separate decisions, *Engel* v. *Vitale*, 370 U.S. 321, and Abington School District against Schempp, the Supreme Court of the United States prohibited the saying of a nondenominational prayer during the normal course of school activities.

Those decisions shocked millions of Americans and since the time of their enforcement, efforts have been made to amend the Constitution to permit such prayer.

I think it is important that we examine what we are attempting to do through House Joint Resolution 191 by our esteemed and courageous colleague, Mr. WYLIE.

Our Nation was founded with religion and a belief in a Supreme Being an integral part of the first colonies. Through the difficult years of colonialization, some attempts were made to establish religions in various parts of the colonies.

Because these attempts violated intentions of most citizens of the 13 colonies, a prohibition against an established church was incorporated in our Constitution.

The wording of the first amendment, referred to frequently in numerous court decisions as the establishment clause is clear:

> Congress shall make no law respecting an establishment of religion.

The idea that government at any level would attempt to require a particular religious doctrine as a part of their curriculum is alien to the sweep of history of the United States. The eloquence of James Madison reflected the attitudes of our Nation in its infancy when he wrote that religion is too personal, too sacred, too holy, to permit its "unhallowed perversion" by a civil magistrate.

Madison's concern is applicable to our discussion today. The opponents of the proposed amendment to our Constitution are critical, because of potential dangers of interweaving the role of church and state. It should be stated clearly and unequivocally, that the supporters of this amendment do not seek to tie government to church, legislator to cleric.

Instead, we seek merely an opportunity for those who wish to pause in a moment's meditation, to communicate with their God in the manner which they desire.

In the historic Vitale decision, it was made clear that no compulsion existed in New York State schools for any student, faculty or staff member to participate in the regents prayer. Surely this same standard will be applied if the amendment permitting nondenominational prayer is passed, first by the Congress and then by three-fourths of the State legislatures.

The winds of change which at times have blown with hurricane force in recent years, frequently threaten to so dilute our Nation's heritage as to render this country helpless and totally lacking a sense of direction.

The amendment to permit nondenominational prayers in our schools can help end this dilution of national direction. Every man, woman, and child in this country has the freedom to choose their form of religion or to choose none at all. There is nothing in the amendment which will abridge that right. There is nothing in our national history which should prevent our declaration of support for the right to pray as one sees fit.

Mr. WYMAN. Mr. Speaker, I rise in support of the amendment of the gentleman from Alabama. It meaningfully improves the context of the resolution of the gentleman from Ohio (Mr. WYLIE).

At stake here is a tremendous concern of this Nation—the exposure of its youth to prayer on an optional basis in the schools of our land. No longer is there a question of denominational prayer—although, frankly, this would not disturb me since each child has the protected right of nonparticipation. Actually it should make no difference whether a prayer is the simple one to Almighty God composed by the New York Board of Regents, or a Catholic prayer or a Jewish prayer, or anything else. The point is that we must and should remain humble before a Supreme Being. It is wise to encourage our young people to believe in a Supreme Being—from whatever perspective.

On June 18, 1963, immediately following the Supreme Court's decision misinterpreting the enjoinders of the Constitution's first amendment to deny even voluntary prayer in the public schools, I protested on the floor of this House that we are a nation under God and that the legal technicalities of the Court's decision reflected a new cynicism that before the Great Dispenser of Infinite Justice seem to me to be asking for trouble.

I also said then that—

> The real question in determining the eventual success or failure of democracy in the world is not whether God is on our side but whether we are on God's side. The pattern of these decisions does not help us to be on God's side.

The constitutional amendment being proposed here today will help strengthen the moral and spiritual fiber of America at a time when it needs it badly. Let us resolve to expose our young people to voluntary prayer or meditation. Regrettably this option is too often unavailable to them elsewhere.

America needs this amendment at this hour. Our children need it. The Court decision to which this amendment is addressed took America backwards. Let us be on with the important business of presenting to the several State legislatures the option to undo this misfortune that casts an unwarranted and tragic shadow across the basic faith in God that remains the mainstay of the American way of life.

Congress, which is a representative body, owes it to the American people who overwhelmingly support this amendment, to declare its intent as recognizing, respecting, and thanking Him who has given us all that we have, by amending the Constitution to insure our right to participate in prayer on a voluntary basis in public places.

I urge the adoption of the pending amendment.

Mr. HATHAWAY. Mr. Speaker, I rise in opposition to the Buchanan amendment, primarily because of the difficulties of interpretation I can foresee, both as to its meaning and scope.

If the purpose of the Buchanan amendment is to allow voluntary, personal, silent prayer or meditation in the public schools, the amendment is unnecessary and superfluous since such acts are not in violation of the Supreme Court decisions of 1962 and 1963. A child may pray in school so long as he does not interfere with the rights of others in doing so. Indeed, any prohibition on such voluntary prayers would be contrary to the free exercise clause of the first amendment.

If, on the other hand, the intent of the amendment is to authorize the recitation, albeit on a voluntary basis, of prayers which have the sponsorship of school authorities or State or local officials, then the Buchanan amendment is even more mischievous than the original Wylie amendment. Since it substitutes "voluntary" for "nondenominational," the Buchanan amendment, in

effect, sanctions the recitation of denominational prayers reflecting the peculiar faith and denominational orientation of those who author the prayer. Approving this amendment may therefore authorize utilizing public agencies to indoctrinate students in the tenets of whatever faith the power structure of the local community decided it wanted.

Moreover, as I stated earlier, and as many others have noted, with the young the pressure to conform or suffer the pain of being branded an "outsider" is not appreciably lessened by making participation "voluntary." Prayers which have the sanction of school authorities are not really "voluntary," for few children of elementary or secondary school age have the courage or foolhardiness to isolate themselves and face the disapproval of their teachers and classmates through nonparticipation.

In sum, Mr. Speaker, the right to pray is not really the issue before us today. That right is not and cannot be granted by the Government or denied by the Government. What is at issue is the right to be free from coercion in matters of religion and prayer, and that freedom will not be enhanced—and may be endangered—by adoption of the Wylie amendment as amended by the Buchanan amendment.

Mr. CELLER. Mr. Speaker, I strongly oppose House Joint Resolution 191, proposing to amend the Constitution of the United States with respect to the offering of prayer in public buildings as it is presently written. Undoubtedly, some clarification will be necessary to determine the exact meaning of "assembled," "public buildings," and "public funds," but this is not, in my estimation, insurmountable.

My strong opposition to the amendment is over the word "nondenominational." I believe prayer is a person's communication with God and if it means anything, he ought to pray as he has learned to do so, not in some manner which a majority of the people in his community, the State, or the court has determined to be "nondenominational."

To give you an idea of the controversy, most people would think that the prayer, "God is great, God is good, and we thank Him for our food, Amen." would be nondenominational; however, if one is of the Islam religion, he would, in praying such a prayer, use the wording, "Allah is good, Allah is great, and we thank Him for our food, Amen."

Many people would think such a prayer is certainly denominational. I pray as a Christian in a way that would surely be determined denominational and so do my children. If a constitutional amendment is going to protect the rights of people to pray, it certainly ought to protect their right to pray as they believe.

I do not see where a nondenominational prayer would do much good other than in the way that any other recitation would effect students.

The Supreme Court has held that required prayer or prescribed prayer in public school is prohibited by the Constitution. I agree, and feel that official or governmental prescribing of prayer would be unwise.

From the American Law Division of the Library of Congress, I obtained this information: "Taking the Engel and Abington cases together, they proclaim that a State or its instrumentality cannot institutionalize or sanction any form of religious exercise in the public schools, notwithstanding the fact that students might have the option to refrain from participating."

I disagree with the lower courts which have consistently held that formal action by school authorities in providing for a prayer program in public schools, even though voluntary, cannot be constitutionally justified on the basis that students are not coerced into attending the program.

The American Law Division also indicates what Engel and Abington did not decide: First. "They did not determine whether a religious exercise resulting from a spontaneous expression on the part of the students, without any overt encouragement from the State, would violate the establishment clause, and second. "They did not affect the right of school districts to hold nonreligious activity on the school premises. The study of the Bible as literature in the public schools, for example, would be untouched by the establishment clause."

During this debate, no one seems to have a clear idea of what "nondenominational" prayer really is and those who attempt to explain it do not find much agreement amongst our colleagues. If this constitutional amendment were adopted, who is to determine what is nondenominational and what version of the prayer will be used. If one presupposes that the constitutional amendment would reverse all of Supreme Court decisions, then, of course, the State would prescribe nondenominational prayer and that would surely be offensive to me and I think to most of you. Surely, the word "nondenominational" in all its connotations would lead to a political divisiveness over prayer that was sought to be prevented by our Founding Fathers and it certainly would not be satisfactory to any organized religious group.

I understand that an amendment will probably be offered to strike the word "nondenominational" and insert in lieu thereof "voluntary." This I would strongly support.

Mr. LATTA. Mr. Speaker, I arise in support of the amendment to insert the word "voluntary" in lieu of the word "nondenominational" which appears on page 2 just prior to the word "prayer." Some people opposing the passage of House Joint Resolution 191, the joint resolution proposing to amend the Constitution of the United States with respect to the offering of prayer in public buildings, have maintained that it would be difficult to determine what a "nondenominational" prayer was in most cases and that the use of the word might be interpreted to mean that a denomenational prayer was legal or illegal depending on whichever way the opposition cared to argue. I used the word "voluntary" in the prayer resolution, House Joint Resolution 705, which I introduced during the 88th Congress and since I avoided this opposition, I now support the amendment in order to avoid it now.

Much has already been said on this subject today, and I do not wish to restate my position on this subject other than to say, that the longer the courts continue to speak on this subject, the more convinced I am that we must act. Most people opposing prayer in our schools seem to be hung up on the 1962 case which declared a State composed and imposed prayer was unconstitutional by virtue of the "establishment clause" of the first amendment. They fail to recite the later cases which have gone much further than this particular case, which, incidentally, I agree with. The State—through the school authorities—should not be composing prayers and requiring children of all faiths to say those prayers.

Let us look at just a couple of these later cases. The Supreme Court refused to review—and thus let stand—a U.S. Court of Appeals case entitled DeSpain against DeKalb County Community School District in the Seventh Circuit, Illinois, in which the word "God" was eliminated from the words being said. The words being repeated by a kindergarten were:

We thank you for the flowers so sweet;
We thank you for the food we eat;
We thank you for the birds that sing;
We thank you for everything.

The Court held that this constituted a prayer and its compulsory recitation came within the provisions of the first amendment.

The case which really points up the need for this amendment more than any other is the State Board of Education against Board of Education of Netcong, N.J. This was an action by State officers seeking declaratory judgment and injunctive relief with respect to a program of a local board of education for "period of free exercise of religion" in public schools. This program provided for a period in the school gymnasium prior to opening of school, in which students desiring to do so could listen to and participate in the reading of the "remarks" made by the Chaplains of the House and Senate as taken from the CONGRESSIONAL RECORD. Court held this to be an establishment of religion and unconstitutional.

In Stein against Oshinky, U.S. Court of Appeals, 2d Circuit—N.Y.—with Supreme Court refusing to review, it was held that students desiring to hold their own preschool session for prayers could not do so. This case came into the courts when the parents of the children sued the school for refusing to permit these students to exercise their freedom of religion. The Court said that the constitutional right to free exercise of religion and to freedom of speech do not require a State to permit "student-initiated" prayers in public schools.

Mr. Speaker, these cases indicate how far the courts have gone in denying the free exercise of religion to our youth. We should not be denying the youth of America the right to voluntarily practice their religion any more than we should be forcing religion on those who do not wish to receive its blessings. We need to return

to the free exercise of religion and the passage of this resolution is the only way open to us.

Mr. BUCHANAN. I yield for the purpose of a question or debate only to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I rise to ask a question of the sponsor of the amendment, the gentleman from Alabama (Mr. BUCHANAN): As I understand the amendment, it would strike out the word "nondenominational" in the proposed amendment and insert in place thereof the word "voluntary," and then add, "or meditation."

Awhile ago the gentleman from Oklahoma (Mr. EDMONDSON) asked the gentleman from Alabama a question in which he suggested that you accept a proposal to your amendment as a clarifying amendment and, as I understand it, you rejected his proposal. I wish to read Mr. EDMONDSON's proposed amendment:

Page 2, line 2, immediately after "prayer." insert the following new sentence: "Nothing in this article shall be construed to enable or empower any public official or governmental authority to direct or prescribe the form, content, or scheduling of such prayer."

As I recall, the gentleman said that he rejected that language, because he felt it was not necessary. He then responded by saying that this would not give to any State official or any local official any power to do any of these things in prescribing form, content, or scheduling of such prayer.

Does the gentleman's proposal give to any Federal court, the Supreme Court, or to any Federal official, the power to prescribe the form, content, or scheduling of such prayer, the voluntary prayer that the gentleman has talked about?

Mr. BUCHANAN. It does not, and this is firmly not my intention. In my judgment the language of my amendment precludes that.

Mr. GIBBONS. I thank the gentleman.

Mr. BUCHANAN. Mr. Speaker, for purposes of debate only, I yield to the gentleman from Arizona (Mr. STEIGER) 1 minute.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

Mr. Speaker, I would most respectfully like to point out that we seem to be in the rather unique position of stumbling over trees while we are trying to pick up toothpicks. We have heard a great deal about the dangers of peer pressure on impressionable young people in connection with prayer in the schools. If you really believe that the child is going to be subject to that kind of jeopardy if we pass this language, I suggest that you are in the wrong arena, because the kind of peer pressure on most of our children in the public schools today cries out desperately for the peer pressure that calls for prayer. It is not sophistry; it is pure baloney to say that it is peer pressure that concerns you. If it is the form or the manner in which we are doing this that concerns you, then you are really doing the young people a great disservice. I thank the gentleman for yielding.

Mr. BUCHANAN. Mr. Speaker, I yield 1 minute to the distinguished chairman of the House Rules Committee, the gentleman from Mississippi (Mr. COLMER).

The SPEAKER. The gentleman from Mississippi is recognized.

Mr. COLMER. I thank the gentleman for yielding to me.

Mr. Speaker, I asked for this time merely to submit a question to him and, incidentally, to the House. So far as I know, since the inception of this body, it has been opened each day with prayer. The other body has also been opened each day by prayer. If we, the high judges here today, passing on this highly spiritual matter, decide in our wisdom we are going to deny to other assemblages of American citizens throughout the country the right to have prayer, then does it not logically follow that we should abandon the practice that we have historically used in opening this assemblage with prayer?

Mr. BUCHANAN. Mr. Speaker, I yield myself 1 minute.

The SPEAKER. The gentleman from Alabama is recognized.

Mr. BUCHANAN. Mr. Speaker, the distinguished chairman of the House Rules Committee is precisely correct. I interrupted my own remarks in the midst thereof in order to extend to other Members the courtesy of yielding. The gentleman has touched upon a point that I would have desired to reach. What he has said is precisely the case.

We are here exercising rights and prerogatives which have been denied our children. Were the same restrictions imposed upon this body which, on the basis of the original Supreme Court decision, lower court decisions, and decisions of school boards and school administrators, have been imposed upon the school children in the United States, we would not stand still for one moment for those restrictions being imposed upon the House or upon the military service of this country either. The gentleman has made a telling point.

I yield 1 minute for the purpose of debate only to the gentleman from Minnesota (Mr. QUIE).

The SPEAKER. The gentleman from Minnesota is recognized for 1 minute.

Mr. QUIE. Mr. Speaker, if I understand the amendment and the answer of the gentleman from Alabama, it is that a school board could not prescribe a prayer, but by the same token they could not prohibit students from praying. The student or principal or teacher could not prescribe a prayer, but could not be prohibited from praying if they wanted to, and they, in turn, could not prohibit a student from praying. That is my understanding of voluntary prayer.

I disagree with the position taken by the minority leader that this amendment would reverse the previous Supreme Court decisions and that they should be reversed. As I said earlier, I believe that it is wrong for the State to prescribe prayer or even to require that people engage in prayer.

To give you an example of a couple of lower division court cases that I think would not have been made had this amendment permitting voluntary prayers been a part of the constitution are: Hunt versus the Board of Education of the County of Kanawha. In that case, six students in a high school in Kanawha County brought suit to enjoin the board of eduction from prohibiting them from meeting voluntarily on the premises of the school before classes began for the purpose of engaging in group prayer.

Another would have been—the State Board of Education against the Board of Education of Netcong, N.J. The Netcong School in Netcong, N.J., instituted a daily period for free exercise of religion at which time a pupil volunteer read from the CONGRESSIONAL RECORD the remarks of the chaplain of either the United States Senate or House of Representatives. This period was conducted on a voluntary basis each day at 5 minutes before 8 o'clock in the high school gymnasium and pupils who did not wish to participate in the program were permitted to either enter the building and go to their homerooms or postpone their arrival at school until the conclusion of the program.

In both those two cases, I believe that permission of voluntary prayers would have permitted those two practices.

I was very strongly opposed to the constitutional amendment that carried the word "nondenominational." If my children attend public school, and they do, I believe my children should not be denied the right to pray as they believe, and the Wylie amendment would not have protected that right for them since it only permits "nondenominational" prayers. But they are protected under the amendment offered by the gentleman from Alabama. I believe of all the language that has been proposed through the years so far, this is the most ideal for a constitutional change, and it will enable the people to practice their religion as they see fit without coercion.

Mr. BUCHANAN. Mr. Speaker, I yield for purposes of debate only to the gentleman from Illinois, a distinguished member of the committee.

Mr. DENNIS. Mr. Speaker, if the resolution offered by the gentleman from Alabama is adopted, the resolution will read:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer or meditation.

The thing that strikes me about that rather simple language which the gentleman has rather thoroughly explained is that it is a strange thing to consider that the Constitution should ever have been considered to prevent anything of that kind, but because the courts by overdoctrinaire and overrefined interpretations of the first amendment—which were never intended by James Madison, if we go back to the congressional debates—have put us in the position where voluntary prayer as a part of the program in the public schools have not been allowed.

The gentleman's amendment is our only recourse.

Mr. POFF. Mr. Speaker, if the resolution remains in its present form, I shall vote against it. If the amendment to delete the word "nondenominational" and substitute the word "voluntary" or "voluntarily" is adopted, I shall vote for the resolution.

The religious freedom clause of the

first amendment embraces two subclauses. The free exercise clause makes the individual secure in his right to exercise his religious convictions freely. The antiestablishment clause makes the people at large secure against the establishment of a state religion.

Apparently, the original language of House Joint Resolution 191 is intended somehow to broaden or strengthen the free exercise clause. However, either by intent or by accident, it would narrow or weaken the antiestablishment clause.

The antiestablishment clause prohibits any laws which "aid one religion, aid all religions, or prefer one religion over another." Thus, it forbids the establishment of atheistic state religion. It forbids the establishment of an atheistic "religion." It forbids the establishment of an agnostic "religion." It forbids the establishment of a denominational religion. And it forbids the establishment of a nondenominational religion.

To the extent that House Joint Resolution 191 validates the religion of nondenominationalism, it shrinks the antiestablishment clause and offends the principle of separation of church and State. This is the chief flaw in the original resolution.

In large part, the flaw is repaired by deleting the word "nondenominational" and substituting the word "voluntary" or "voluntarily," the repair is enough to justify a vote for the resolution. But the repair is an improvement only and not a perfection. Other language in the resolution remains obscure, imprecise and begging refinement.

The House vote is only the first of many steps in the constitutional amendment journey. The parliamentary realities in the House make further refinement here impracticable and perfection impossible; but the parliamentary disciples of the other body are more flexible. There, further improvement can be accomplished, and in the conference between the two bodies, hopefully perfection can be achieved.

It is with this hope in mind that I will support the amendment to the resolution and when the amendment is accepted, the resolution itself, imperfect as it may be.

Mr. BUCHANAN. Mr. Speaker, I yield myself 3 minutes, and I cannot yield further, and I regret that I say to my colleagues again.

Mr. Speaker, at the outset of the hour, I indicated the position of this Government historically has never been neutral on the subject of religion. Our forefathers only sought to preclude a state church in America, but this country was founded as a nation under God, and I call upon this House today by passage of this amendment and resolution to make that stand in this present hour of American history. But here I do not rest my case.

The second reason I would ask the Members to vote for my amendment and the amended prayer resolution is that this is the people's House of Government. "Here, sir, the people govern." And the people, in 80 or 90 percent majority, have requested and urged us to take this stand.

If the resolution before us should secure the necessary two-thirds vote in the House, it must run the gauntlet of the Senate as well. Should it receive approval there, this debate could continue in the 50-State capitals across the land. There, the people could also make their influence felt and more fully participate in this great decision. But this can only be the case if we here defend their rights by passing a prayer amendment.

We are the people's only voice in the Federal level of Government. They have no representation in the Federal judiciary. In the executive, out of several million, there are only two who are elected and they not directly by the people.

This is the people's House in which the people's voice should be heard and their influence felt. Here the notion of government of the people, by the people, and for the people should become reality. Here, sir, the people should govern. But here I do not rest my case.

Mr. Speaker, I make and rest my case on the ground that religious liberty has been denied in the public schools in America in our time. The issue is that among those unalienable rights of which our forefathers spoke in the Declaration of Independence—life, liberty, and the pursuit of happiness—the most precious liberty and right of all is being violated. I call upon this House to take a stand for religious liberty itself in the passage of the prayer amendment. Let our voice be heard loud and clear that there shall be no limitations upon the free exercise of religious faith for any person of any age anywhere in these United States. Let us announce to the Nation and to history that the free exercise clause of the first amendment to the Constitution is here restored and the religious liberty of the people declared inviolate, both now and forever, so help us God.

Mr. Speaker, I move the previous question on the amendment and the joint resolution to final passage.

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

The previous question was ordered.

PARLIAMENTARY INQUIRY

Mr. SCHWENGEL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The previous question has been ordered. What is the purpose of the gentleman's inquiry?

Mr. SCHWENGEL. To determine whether or not the opposition has any chance of having a further voice, because the opposition had 15 minutes out of the hour. Is there any chance, under the rules, for further debate?

The SPEAKER. The response of the Chair is that this has been under the control of the House. The House voted down the previous question, and the time was given to the gentleman who offered the amendment.

The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. M'CULLOCH

Mr. McCULLOCH. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. McCULLOCH. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCULLOCH moves to recommit the joint resolution (H.J. Res. 191) to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 240, nays 163, not voting 27, as follows:

[Roll No. 366]

YEAS—240

Abbitt	Dwyer	McClure
Abernethy	Edmondson	McCollister
Addabbo	Edwards, Ala.	McDade
Alexander	Esch	McDonald, Mich.
Andrews, Ala.	Eshleman	McEwen
Andrews, N. Dak.	Fish	McKevitt
Archer	Fisher	McKinney
Arends	Flood	Mahon
Ashbrook	Flowers	Mann
Baker	Flynt	Martin
Baring	Ford, Gerald R.	Mathias, Calif.
Bennett	Forsythe	Mathis, Ga.
Betts	Fountain	Melcher
Blackburn	Frey	Michel
Blanton	Fuqua	Miller, Ohio
Bow	Galifianakis	Mills, Md.
Bray	Garmatz	Minshall
Brinkley	Gaydos	Mizell
Broomfield	Gettys	Mollohan
Brotzman	Giaimo	Monagan
Brown, Mich.	Gibbons	Montgomery
Brown, Ohio	Goldwater	Morgan
Broyhill, N.C.	Goodling	Murphy, Ill.
Broyhill, Va.	Gray	Murphy, N.Y.
Buchanan	Gross	Myers
Burke, Fla.	Grover	Natcher
Burke, Mass.	Hagan	Nelsen
Burleson, Tex.	Haley	O'Konski
Byrne, Pa.	Hall	Perkins
Byrnes, Wis.	Hammer-schmidt	Pettis
Byron	Hanley	Pike
Camp	Harsha	Pirnie
Carney	Hastings	Poage
Carter	Hays	Poff
Casey, Tex.	Hébert	Powell
Cederberg	Hechler, W. Va.	Price, Ill.
Chamberlain	Heckler, Mass.	Price, Tex.
Chappell	Henderson	Pucinski
Clancy	Hicks, Mass.	Purcell
Clark	Hicks, Wash.	Quie
Clausen, Don H.	Hillis	Quillen
Clawson, Del	Hogan	Randall
Cleveland	Hosmer	Rarick
Collier	Hunt	Rhodes
Collins, Tex.	Hutchinson	Roberts
Colmer	Ichord	Robinson, Va.
Conable	Jarman	Roe
Conte	Johnson, Pa.	Rogers
Coughlin	Jonas	Roncalio
Daniel, Va.	Jones, N.C.	Rooney, Pa.
Davis, S.C.	Jones, Tenn.	Rostenkowski
Davis, Wis.	Kazen	Roush
de la Garza	Keating	Rousselot
Delaney	Kee	Runnels
Dennis	Kemp	Ruppe
Dent	King	Ruth
Devine	Kuykendall	Sandman
Dickinson	Kyl	Sarbanes
Donohue	Landgrebe	Saylor
Downing	Latta	Scherle
Dulski	Lennon	Schmitz
Duncan	Lent	Schneebeli
du Pont	Lujan	Scott
	McClory	Sebelius

Shipley	Talcott	Widnall
Shoup	Taylor	Williams
Shriver	Teague, Calif.	Winn
Sikes	Teague, Tex.	Wolff
Slack	Terry	Wright
Smith, Calif.	Thompson, Ga.	Wyatt
Smith, N.Y.	Thomson, Wis.	Wydler
Snyder	Thone	Wylie
Spence	Vander Jagt	Wyman
Springer	Veysey	Yatron
Staggers	Waggonner	Young, Fla.
Steele	Wampler	Young, Tex.
Steiger, Ariz.	Ware	Zablocki
Stratton	Whalley	Zion
Stubblefield	White	Zwach
Stuckey	Whitehurst	
Sullivan	Whitten	

NAYS—163

Abourezk	Fraser	Moorhead
Abzug	Frelinghuysen	Morse
Adams	Frenzel	Mosher
Anderson, Calif.	Fulton, Tenn.	Moss
	Gallagher	Nedzi
Anderson, Ill.	Gonzalez	Nix
Anderson, Tenn.	Grasso	Obey
	Green, Pa.	O'Hara
Annunzio	Griffin	O'Neill
Ashley	Griffiths	Passman
Aspin	Gude	Patman
Aspinall	Hamilton	Patten
Badillo	Hanna	Pepper
Begich	Hansen, Idaho	Peyser
Bergland	Hansen, Wash.	Podell
Biaggi	Harrington	Preyer, N.C.
Biester	Hathaway	Railsback
Bingham	Hawkins	Rangel
Blatnik	Heinz	Rees
Boggs	Helstoski	Reid, N.Y.
Boland	Holifield	Reuss
Bolling	Horton	Riegle
Brademas	Howard	Robison, N.Y.
Brasco	Hungate	Rodino
Brooks	Jacobs	Rooney, N.Y.
Burlison, Mo.	Johnson, Calif.	Rosenthal
Burton	Jones, Ala.	Roy
Cabell	Karth	Roybal
Carey, N.Y.	Kastenmeier	Ryan
Celler	Keith	St Germain
Chisholm	Kluczynski	Satterfield
Clay	Koch	Scheuer
Collins, Ill.	Kyros	Schwengel
Conyers	Landrum	Seiberling
Corman	Leggett	Sisk
Cotter	Link	Smith, Iowa
Culver	Long, Md.	Stanton, James V.
Daniels, N.J.	McCloskey	
Danielson	McCormack	Steed
Davis, Ga.	McCulloch	Steiger, Wis.
Dellenback	McFall	Stephens
Dellums	McKay	Stokes
Denholm	Macdonald, Mass.	Symington
Dingell		Thompson, N
Dorn	Madden	Tiernan
Dow	Mailliard	Udall
Drinan	Matsunaga	Ullman
Eckhardt	Mayne	Van Deerlin
Edwards, Calif.	Mazzoli	Vanik
Eilberg	Meeds	Waldie
Evans, Colo.	Metcalfe	Whalen
Evins, Tenn.	Mikva	Wiggins
Fascell	Miller, Calif.	Wilson, Charles H.
Findley	Mills, Ark.	
Foley	Minish	Yates
Ford, William D.	Mink	
	Mitchell	

NOT VOTING—27

Barrett	Erlenborn	Pelly
Belcher	Green, Oreg.	Pickle
Bell	Gubser	Pryor, Ark.
Bevill	Halpern	Skubitz
Caffery	Harvey	Stanton, J. William
Crane	Hull	
Derwinski	Lloyd	Vigorito
Diggs	Long, La.	Wilson, Bob
Dowdy	McMillan	
Edwards, La.	Nichols	

So (two-thirds not having voted in favor thereof) the joint resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hull and Mr. Dowdy for, with Mr. Caffery against.

Mr. Bevill and Mr. Nichols for, with Mr. Diggs against.

Mr. Bob Wilson and Mr. Skubitz for, with Mr. Pelly against.

Until further notice:

Mrs. Green of Oregon with Mr. Belcher.
Mr. Pickle with Mr. Lloyd.
Mr. McMillan with Mr. Derwinski.
Mr. Barrett with Mr. Gubser.
Mr. Vigorito with Mr. Harvey.
Mr. Pryor of Arkansas with Mr. Erlenborn.
Mr. Crane with Mr. Bell.
Mr. J. William Stanton with Mr. Halpern.

Mr. FISHER changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7072, AIRPORT AND AIRWAY TRUST FUND AMENDMENTS

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92–624)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That section 12(h)(5) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712(m)(5)) is amended by striking out "January 1, 1972" and inserting in lieu thereof "January 1, 1973".

SEC. 2. The first sentence of section 14(d) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(d)) is amended to read as follows: "The balance of the moneys available in the trust fund may be allocated for the necessary administrative expenses incident to the administration of programs for which funds are to be allocated as set forth in subsections (a), (b), and (c) of this section, and for research and development activities under section 312(c) (as it relates to safety in air navigation) of the Federal Aviation Act of 1958.".

SEC. 3. Section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by adding at the end thereof the following new subsection:

"(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

"(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the trust fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in subsections (c) and (d) of this section, as amended.

"(2) Amounts equal to the minimum amounts authorized for each fiscal year by subsections (a) and (c) of this section shall remain available in the trust fund until appropriated for the purposes described in such subsections.

"(3) No amounts transferred to the trust fund by subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 (relating to aviation user taxes) may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (d).".

SEC. 4. (a) Paragraphs (8) and (11) of section 11 (49 U.S.C. 1711), subsection (b)(3) of section 13 (49 U.S.C. 1713), and subsection (b)(2) of section 15 (49 U.S.C. 1715) of the Airport and Airway Development Act of 1970 are each amended by inserting immediately after "Virgin Islands," wherever appearing therein the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(b) Paragraphs (1) and (2) of section 14(a) of such Act (49 U.S.C. 1714) are each amended by inserting after "Guam," the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(c) Subsection (c) of section 17 of such Act (49 U.S.C. 1717) is amended (1) by inserting immediately after "VIRGIN ISLANDS" in the heading of such subsection a comma and the following: "AMERICAN SAMOA, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS", and (2) by inserting immediately after "Virgin Islands" in the text of such subsection a comma and the following: "American Samoa, or the Trust Territory of the Pacific Islands".

SEC. 5. (a) Section 51(b)(4) of the Airport and Airway Development Act of 1970 is amended by striking out "two-year period" and inserting in lieu thereof "three-year period".

(b) Subsection (b) of section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b), as added by section 51 of the Airport and Airway Development Act of 1970, is amended by striking out all after "transportation" in the third sentence thereof and inserting in lieu thereof a period and the following: "Unless the Administrator determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited to terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.".

SEC. 6. Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended by inserting "(including airport operating certificate)" immediately after "air navigation facility certificate".

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN D. DINGELL,
JOHN M. MURPHY,
BROCK ADAMS,
WILLIAM L. SPRINGER,
SAMUEL L. DEVINE,
JAMES HARVEY,
DAN KUYKENDALL,
Managers on the Part of the House.

HOWARD W. CANNON,
VANCE HARTKE,
PHILIP A. HART,
JAMES B. PEARSON,
HOWARD BAKER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

SHORT TITLE

House bill

No comparable provision.

Senate amendment

Section 101 of the Senate amendment provided that the legislation could be cited as the "Airport and Airway Development and Revenue Acts Amendments of 1971".

Conference substitute

The conference substitute omits the short title provided by the Senate amendment.

REPORTING DATE OF AVIATION ADVISORY COMMISSION

House bill

The first section of the House bill extended the final reporting date of the Aviation Advisory Commission established under section 12(h) of the Airport and Airway Development Act of 1970 from January 1, 1972, to January 1, 1973.

Senate amendment

Section 103 of the Senate amendment extended the final reporting date of the Commission to July 1, 1972.

Conference substitute

The conference substitute is the same as the House bill.

ADMINISTRATION OF THE TRUST FUND

Airport and Airway Development Act of 1970

House bill

Section 2 of the House bill amended section 14(d) of the Airport and Airway Development Act of 1970 to permit rather than require the allocation of money in the Airport and Airway Trust Fund for administrative expenses incident to the administration of the airport development program and to the acquisition, establishment, and improvement of air navigation facilities. This section of the House bill also removed from existing law the authority to allocate money in the trust fund for the maintenance and operation of air navigation facilities.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill.

House bill

Section 3 of the House bill added a new subsection (e) to section 14 of the Airport and Airway Development Act of 1970, relating to the preservation of money in the trust fund and the priorities for expenditure of money in the trust fund.

Paragraph (1) of the new subsection (e) provided that, notwithstanding any other provision of law to the contrary, no money could be appropriated from the trust fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in subsections (c) and (d) of section 14 of the Airport and Airway Development Act of 1970. Subsection (c) of such section 14 refers to the acquisition, establishment, and improvement of air navigation facilities. Subsection (d) of such section 14 (as amended by the House bill and the conference substitute) refers to (1) administrative expenses incident to the administration of programs for airport development and for the acquisition, establishment, and improvement of air navigation facilities, and (2) research and development expenses under section 312 (c) of the Federal Aviation Act of 1958, as it relates to safety in air navigation.

Paragraph (2) of the new subsection (e) provided that amounts equal to the minimum amounts authorized for each fiscal year for airport development ($280,000,000) and airway facilities ($250,000,000) must remain in the trust fund until appropriated for such purposes.

Paragraph (3) of the new subsection (e) provided that none of the user taxes transferred to the trust fund by section 208 of the Airport and Airway Revenue Act of 1970 could be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation except to the extent such administrative expenses were incident to the administration of the airport development program or the acquisition, establishment, and improvement of air navigation facilities.

Senate amendment

Section 101 of the Senate amendment also added a new subsection (e) to section 14 of the Airport and Airway Development Act of 1970, relating to the preservation of money in the trust fund and the priorities for expenditure of money in the trust fund.

Paragraph (1) of the new subsection (e) contained a provision identical to that contained in the House bill providing that amounts equal to the minimum amounts authorized for each fiscal year for airport development and for airway facilities must remain in the trust fund until appropriated for such purposes.

Paragraph (2) of the new subsection (e) provided that none of the user taxes transferred to the trust fund by section 208 of the Airport and Airway Revenue Act of 1970 could be appropriated for any fiscal year to carry out activities referred to in subsection (d) of section 14 of the Airport and Airway Development Act of 1970 (relating to administrative, research and development, and maintenance and operating expenses) until the minimum amounts authorized for airport development and for airway facilities had been appropriated for that fiscal year.

Conference substitute

The conference substitute is the same as the House bill.

AIRPORT AND AIRWAY REVENUE ACT OF 1970

House bill

No comparable provision.

Senate amendment

Section 201 of the Senate amendment amended paragraph (1) of section 208(f) of the Airport and Airway Revenue Act of 1970 to eliminate language authorizing expenditures from the trust fund for specific purposes and revising the language to provide that the amounts in the trust fund would be available, as provided by appropriation Acts, for expenditures to meet obligations of the United States authorized under the Airport and Airway Development Act of 1970, thus incorporating by reference the priorities established under section 14 of the Airport and Airway Development Act of 1970.

Conference substitute

The conference substitute omits the Senate amendment to the Airport and Airway Revenue Act of 1970.

AMERICAN SAMOA AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

House bill

No comparable provision.

Senate amendment

Section 102 of the Senate amendment amends sections 11, 13, 14, 15, and 17 of the Airport and Airway Development Act of 1970 to permit American Samoa and the Trust Territory of the Pacific Islands to participate in the Federal grant-in-aid program for airport development provided for in that Act.

The amendments to section 11 provided that American Samoa and the Trust Territory of the Pacific Islands be included within the definitions of the terms "planning agency" and "public agency". Their inclusion within the definition of the term "planning agency" would make them eligible to receive grants of funds for airport system planning and airport master planning under section 13 of the Act. Their inclusion within the definition of the term "public agency" would permit them to submit applications for grants of funds for airport development projects under section 16 of the Act.

The amendment to section 13 provided that American Samoa and the Trust Territory of the Pacific Islands would be subject to the same limitation with respect to the allocation of funds for planning grants that applies with respect to the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam. The limitation provides that not more than 7.5 per centum of the funds made available for planning grants for any fiscal year may be allocated to any one State.

The amendments to section 14 provided that the Secretary of Transportation could make grants for airport development projects in American Samoa and the Trust Territory of the Pacific Islands.

The amendments to section 15 provided that the discretionary fund would be available for making grants for approved projects for airport development in American Samoa and the Trust Territory of the Pacific Islands.

The amendments to section 17 provided that the United States share of allowable project costs of any approved project for airport development in American Samoa and the Trust Territory of the Pacific Islands could not exceed 75 per centum of the allowable project costs. This grants them the same preferential treatment accorded the Virgin Islands under that section. The United States share of allowable project costs is otherwise generally limited to 50 per centum.

Conference substitute

The conference substitute is the same as the Senate amendment.

AIRPORT CERTIFICATION REQUIREMENTS

House bill

No comparable provision.

Senate amendment

Section 104 of the Senate amendment amended section 51(b)(4) of the Airport and Airway Development Act of 1970 to postpone from May 21, 1972, to May 21, 1973, the effective date of the airport certification requirements added to the Federal Aviation Act of 1958 by section 51(b) of the Airport and Airway Development Act of 1970.

Section 104 of the Senate amendment also amended section 612(b) of the Federal Aviation Act of 1958, as added by section 51 of the Airport and Airway Development Act of 1970, to remove from such section 612(b) language requiring that each airport operating certificate contain terms, conditions, and limitations relating to the installation, operation, and maintenance of adequate air navigation facilities and to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

Conference substitute

The conference substitute follows the Senate amendment insofar as it extends from May 21, 1972, to May 21, 1973, the effective date of the airport certification requirements.

The conference substitute also amends section 612(b) of the Federal Aviation Act of 1958 relating to the terms, conditions, and limitations required to be included in each

airport operating certificate. The conference substitute does not remove from section 612 (b) all language relating to required terms, conditions, and limitations, but revises the language to provide that, unless the Administrator of the Federal Aviation Administration determines that it would be contrary to the public interest, each airport operating certificate must contain terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

House bill

No comparable provision.

Senate amendment

Section 105 of the Senate amendment amended section 609 of the Federal Aviation Act of 1958 to provide that the authority of the Secretary of Transportation to amend, suspend, modify, or revoke an air navigation facility certificate includes authority to amend, suspend, modify, or revoke an airport operating certificate.

Conference substitute

The conference substitute is the same as the Senate amendment.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN D. DINGELL,
JOHN M. MURPHY,
BROCK ADAMS,
WILLIAM L. SPRINGER,
SAMUEL L. DEVINE,
JAMES HARVEY,
DAN KUYKENDALL,
Managers on the Part of the House.

HOWARD W. CANNON,
VANCE HARTKE,
PHILIP A. HART,
JAMES B. PEARSON,
HOWARD BAKER,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON S. 659, HIGHER EDUCATION ACT OF 1971

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes, with a House amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

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

Mr. WAGGONNER. Mr. Speaker, reserving the right to object, I would like to ask the distinguished gentleman from Kentucky (Mr. PERKINS), if his proposal now with respect to the Higher Education bill refers to the same Higher Education bill which the House passed last Thursday, to which was attached the new title, the Pucinski amendment, title XXI?

Mr. PERKINS. That is correct.

Mr. WAGGONNER. I would further like to ask the gentleman if his statement to the House that we insist in conference when we go to conference on the House language is a statement on his part that he and the other conferees are going to defend the entire bill as it finally passed the House with all its language, which includes the busing amendments, beginning with the Broomfield amendment, and the Ashbrook amendment as amended by the Green of Oregon amendment, and the Pucinski amendment, which is, of course, all of title XXI?

Mr. PERKINS. Let me state to my distinguished colleagues that it will be my purpose to support the House adopted provisions. However, I am sure the gentleman realizes that in any conference of this magnitude there may have to be some give and take because of the importance of the higher education bill to the institutions of the country and to the students involved throughout America.

Mr. WAGGONNER. The gentleman is right. Always there is the question of give and take, but I think the expression from this House was so overwhelming that it would be folly on the part of the gentleman from Kentucky to believe he could give on this language. I would simply like to say if at some point in time the gentleman believes this is necessary, would he come back to the House for instructions?

Mr. PERKINS. Let me say to my distinguished colleague, I will always report the true facts to any individual who asks me concerning the conference, just like I reported to the gentleman from Louisiana when he asked me last week when I intended to request a conference with the Senate. I will certainly keep the gentleman informed on any occasion he asks me about any of the controversies existing in the conference.

Mr. WAGGONNER. I thank the gentleman.

Mr. Speaker, before I withdraw my reservation I would simply like to say if this language is not held intact there will be an effort to recommit the conference report with instructions.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees:

Mr. PERKINS, Mrs. GREEN of Oregon, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. PUCINSKI, Mr. DANIELS of New Jersey, Mr. BRADEMAS, Mr. HAWKINS, Mr. SCHEUER, Mr. MEEDS, Mr. BURTON, Mr. MAZZOLI, Mr. QUIE, Mr. BELL, Mr. REID of New York, Mr. ERLENBORN, Mr. DELLENBACK, Mr. ESCH, Mr. STEIGER of Wisconsin, and Mr. HANSEN of Idaho.

FORMER SENATOR SPESSARD L. HOLLAND OF FLORIDA

The SPEAKER. The Chair recognizes the gentleman from Florida (Mr. SIKES) to announce the death of a distinguished Member of Congress.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members have 5 days in which they may extend their remarks on the life, character and service of the late Honorable Spessard L. Holland of Florida.

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

There was no objection.

Mr. SIKES. Mr. Speaker, it is my sad duty to announce to the Members of the House the death of one of Florida's greatest leaders and one of its most beloved citizens, former Senator Spessard L. Holland of Bartow. Senator Holland died in his sleep late Saturday following a relaxed afternoon with family and friends. His passing was not unexpected. He had given up his seat in the Senate because of an increasingly serious heart condition which made it unwise for him to remain in public life. Nevertheless, Florida and the Nation have suffered a great loss. He was acclaimed as Florida's greatest living statesman and a man whose leadership and sage counsel will be sorely missed by the Nation to which he has contributed so very much. It was my high privilege to work closely with him through many years, beginning when he and I saw service together in the Florida Legislature. He was Florida's Governor during my early service in the Congress and he came here as United States Senator in 1946.

I think it can be said Spessard Holland will never really leave those of us who knew and loved him. This gentle man from Polk County, Fla., gave of himself far above and beyond duty for each of his 79 years on an earth he helped shape and make better for his fellow men.

Spessard Holland was, in every sense, a man without peer. He agonized for his Nation in war having seen the horrors of combat as an observer with the Army Air Service in World War I. He met danger with bravery and a grateful Nation awarded him the Distinguished Cross for his military exploits.

He distinguished himself as a prosecuting attorney in his native county, later serving as county judge, as a State Senator and then assuming the high office of Governor of Florida in 1941.

Elected to the U.S. Senate in 1946, Spessard Holland remained in this work for 24 years, departing only last January after announcing that his health would no longer permit him to serve his country with the energy which he displayed so many years.

Even in retirement, Spessard Holland was not idle. He continued to make himself available to his friends, providing when asked, wisdom and clarity of insight drawn from his role as a shaper of history and a man deeply concerned for mankind.

His personal dedication also set him apart from others.

His entire life revolved around his lovely and devoted wife, Mary, and she was almost constantly at his side, never complaining that the great mind which made Spessard Holland such a valued man was so occupied with affairs of national and international importance.

Spessard Holland showed a particular dedication in his associations with all those he served, whether as an elected representative of the people or as an adviser to the great and near great of America. He also was a deeply religious man and his dedication to his faith was shown in his constant support of his chosen church.

Those who stood proudly in his shadow, as many of us did, knew that here, in Spessard Holland, was a brave yet gentle man, humble yet great, scholarly yet completely at home with the uneducated, an associate of the leaders of his age yet never too busy or too elevated to reach out to help all who needed him.

If this complicated, yet very simple man had a personal credo, it must have been to do what was right for all men everywhere.

Certainly he did just that for his State and his Nation, and he did it all with love for his fellow man. This I believe, was the foundation for his greatness.

Senator Holland was 79. He is survived by his wife; two sons, S. Lindsey Holland, Jr., and William B. Holland; and two daughters, Mrs. Mary Groover Lewis and Mrs. Ivanhoe Holland Craney; and 15 grandchildren.

Mrs. Sikes and I extend our deep and earnest sympathies to the bereaved. We, too, have lost someone near and dear to us. Our association with Spessard and Mary Holland goes back through many happy years.

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

Mr. SIKES. I yield to my distinguished colleague from Florida.

Mr. HALEY. Mr. Speaker, this is a sad day for all Floridians because we have lost our most distinguished citizen, Spessard L. Holland. It is particularly a sad day for me because I have lost a dear friend of more than 40 years. We were friends in every sense. Mrs. Haley and I shared many warm experiences with Mary and Spessard Holland during that lifetime of friendship.

Florida has had many native sons who were outstanding in public service, many who have brought great honor to our State, but none has ever outshone Spessard Holland with his quiet dignity and the quality and degree of his service. He was proficient in every task he undertook. He was sound in his judgment. He was effective in his service as a county prosecutor, as a county judge, and as a State senator. History will judge him to have been one of the best Governors Florida ever had. Few States have been in such stable condition as Florida was at the close of the Holland administration. It was during this time that he was instrumental in persuading the Federal Government to establish the Everglades National Park, preserving for all Americans the tropical wilderness of the unique Everglades.

During the quarter of a century that Spessard Holland served in the U.S. Senate, his accomplishments were many. He considered his greatest achievement the abolishment of the poll tax. Prior to coming to Washington he was the leader in the successful fight to abolish the poll tax in Florida. As a U.S. Senator he continued to fight the practice of requiring the voters to pay a tax as a qualification to vote in a Federal election. Thus, in 1962, he became the father of the 24th amendment to the U.S. Constitution by which the poll tax was abolished.

In the 25 years he served in the Senate, he became a great power and he used that power for what he considered to be best for all the people of our Nation. He was respected by all who served with him. He added strength to any cause he espoused. He was esteemed also as a worthy adversary.

He served our Nation also in time of war. He was decorated for valor as a result of his courageous efforts as a flying ace in World War I when he was one of the small, brave band of men of the original Army Air Corps.

Mrs. Haley and I share the grief of his family and we mourn their loss. We extend our heartfelt sympathy to his loyal and devoted wife, Mary, to their sons, Lindsey and William, and their daughters, Mary Groover and Ivanhoe.

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

Mr. SIKES. I yield to my distinguished colleague from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank my distinguished dean and colleague for yielding to me.

I want to associate myself with the lament which the gentleman has uttered on the passing of our former beloved colleague, Senator Spessard L. Holland. I had the honor of serving 5 years in the other body with Senator Holland, and I have known him for 35 or 40 years on the basis of very warm friendship.

In 1940 my then colleague in the other body and I recommended him for a high position in Florida, but he told us he had already committed himself to run for the office of governor and preferred to go ahead with that. He could have had many other honors, but he did not choose to accept.

He had a great record in the military service of his country, gaining the distinction of earning the Distinguished Service Cross in World War I.

He was a man of unusual success in politics because of his character, his competence, and his dedication to public duty. Starting with the position of prosecuting attorney in his county of Polk and as county judge and going up through the legislature to Governor of the State of Florida and for four terms in the U.S. Senate, he distinguished himself in public office.

All through his career he exemplified honor and was the symbol of integrity. He was a man who had great personal charm and beauty of spirit. The State of Florida and our country are indeed poorer that this great and good man has passed on.

My wife and I join in extending our deepest sympathy to the bereaved.

Mr. SIKES. Mr. Speaker, I yield to my distinguished friend and colleague from Florida (Mr. GIBBONS).

Mr. GIBBONS. I thank my colleague for yielding to me.

Mr. Speaker, I have known Spessard Lindsey Holland for just about since I was born. He was a distinguished scholar and statesman and soldier. He was also a distinguished family man.

He contributed a great deal to the State of Florida and to his own community of Bartow in Polk County, Fla., and even more than that to this United States.

He was a vigorous man all of his life. I had an opportunity to be with him just 2 weeks ago. I was happy to see him then alert, alive, and very energetic, as he had always been while he was here in the U.S. Congress.

I join with the other Members of the House in mourning his passing.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, the people of the United States and the State of Florida have lost one of the country's most distinguished statesmen. The death of Senator Spessard L. Holland marks the end of a long career devoted to public service.

The Senator's 50 years of illustrious public service began as county judge in Bartow, Fla., and spanned the governorship of our State and 24 years in the U.S. Senate. His service was exemplified by his great courage, his deep convictions, and his sincere sympathy for the problems of others. Spessard consistently responded with encouragement and assistance to any plea from his constituents, his colleagues, or other friends for aid.

The quality which Senator Holland thought most important in Government, and that which more than any other characterized his service, was integrity. His actions throughout his governmental service were always marked by their unquestionable honesty, and keen sense of justice.

The benchmarks of Senator Holland's talent will remain in history. There are many, but two are particularly outstanding: His leadership in the movement which abolished the discriminatory poll tax, and his role in the Tidelands case.

It was a unique experience and an invaluable one to serve with the Senator in the Florida delegation. His skill as a legislator and his knowledge of government were unsurpassed, and his judgment unfailingly accurate. His guidance and assistance throughout my congressional career, both personally and in congressional matters, were invaluable. Spessard's death is a great personal loss for me.

Mrs. Fascell and I share the grief of his lovely wife Mary and his family, and we extend our deepest sympathy.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I thank my colleague for yielding.

I wish to join with him and the others here in paying tribute to Senator Spessard Holland.

His record of public service to the people of Florida and the people of America earned him the love, admiration, and respect of all the people of Florida. Their feeling toward him had no party line.

Like Mr. GIBBONS, the gentleman from Florida, I had the privilege 2 weeks ago of sitting by his side while we had lunch in the University of Florida homecoming celebration.

I can say to you that even at that late point in his life his concern was for the people of America and what was good for our great Nation.

I am sure that every American, had they had the opportunity to know him as we have, would mourn his passing.

Mr. SIKES. Mr. Speaker, I yield to the

distinguished chairman of the Committee on Appropriations (Mr. MAHON).

Mr. MAHON. Mr. Speaker, the gentleman from Florida, Spessard L. Holland, was a distinguished American. He made a great contribution to his State and to the Nation. I am pleased to join with others in paying tribute of the memory of this distinguished American and in extending sympathy to those of his family who survive.

Through the years I worked closely with Senator Holland on appropriation bills. He was broad gauged and farseeing. He had an abiding love of country and he manifested that love in the legislative record which he wrote during his long and outstanding career in the United States Congress.

Mr. SIKES. Mr. Speaker, I yield to the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Speaker, I thank my distinguished colleague for yielding to me.

I have known Senator Spessard L. Holland since 1949. And I have known how he felt on various issues. He has been a strong conservative voice in the U.S. Senate. He was an outstanding leader long before he got into politics, having won the Distinguished Service Cross in World War I.

He has not only been a great American, but he served as the Governor of the great State of Florida with great distinction. He served well in all capacities of life. He was a strong conservative. He was one of the few Governors of my State who left it with a surplus rather than a deficit.

Mr. Speaker, I feel indeed sorry that the Senator has passed away. Age, of course, will take us all, but I think Spessard Holland left something to the people of the State of Florida beside a name that the people will cherish. He worked for the poor as well as the rich. He was, in my opinion, and as history will show, one of our country's greatest statesmen and certainly one of the greatest that ever was produced by the State of Florida.

Mr. Speaker, I extend my most sincere and heartfelt sympathy to his widow and to his family.

Mr. SIKES. I thank the gentleman for those kind remarks.

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

Mr. SIKES. I am glad to yield to the distinguished gentleman from California.

Mr. SISK. I thank my colleague for yielding to me.

Mr. Speaker, I wish to join with my colleagues from Florida and other Members of the House in mourning the passing of a great American.

I particularly take this time, Mr. Speaker, to compliment the life and works and efforts made by the very able and distinguished Senator from Florida. I say this, because we in California have many times referred to Senator Holland as the third Senator from California. This is not meant to in any way take away from the people of the State of Florida the many contributions which he made to that great State, but to indicate the fact that we in California have so deeply appreciated the great work that Senator Holland has performed as a good soldier in the ranks.

Mr. Speaker, I join in mourning his passing. He was indeed a personal friend of mine. I appreciate the opportunity I had to know him and to work with him.

On behalf of my wife and I, I join with my other colleagues in expressing our deepest sympathy to his family.

Mr. ROGERS. Mr. Speaker, the State of Florida and our Nation have lost a dedicated American with the passing of former U.S. Senator Spessard L. Holland who died at his home of a heart attack on Saturday, November 6, at the age of 79.

Spessard L. Holland gave over a half-century of his life to public service, as a prosecutor, judge, State representative, Governor, and U.S. Senator. He was a premier statesman, always mindful of the public trust given to him and dedicated to his job, his constituents, and the preservation of the American ideals we so often take for granted.

Spessard L. Holland was a dedicated conservationist when the word "ecology" was not a household word. His initial and continuing efforts were responsible for the creation, and later expansion, of the Everglades National Park, a unique combination of flora and fauna in the southwest portion of the State of Florida.

Spessard L. Holland was an advocate of agriculture, having been raised in a rural environment. He was mindful of the worth of the soil, its products, and its future capacity to meet the needs of the American people.

But, above all, Spessard L. Holland was an American, dedicated to the strength and independence of this great Nation of ours, and a defender of her in times of despair and challenge, at home and aboard. He has been missed in the U.S. Senate since his retirement at the end of the 91st Congress, and he will be missed now, more than ever, because we have lost his wisdom, his knowledge, and his guidance.

My mother and father were close friends of Spessard and Mary Holland, particularly during the days when my father served in the House of Representatives while Spessard was in the U.S. Senate.

My mother, my wife, Becky, and I extend to Spessard's beloved wife, Mary, and to their children, Lindsey, Mary Groover, Billy Ben, and Ivanhoe, our deepest condolences at his passing, but we trust they will, as we do, take deep satisfaction at his full life of dedicated public service.

Mr. CHAPPELL. Mr. Speaker, this week, America lost a great statesman, Senator Spessard Holland. Reaching back over the span of half a century, a neighborhood, a county, a State, and finally a nation and indeed the world, was beneficiary of the tireless work of this illustrious servant of the people. Today we all pay tribute to him and for his contributions to the Nation.

Though he retired from office last year, Senator Holland carried the burden of leadership on with him into retirement. Always he exhibited those traits that cause people to turn to him for the guidance, the stability, and the hope that a people need so often.

Mr. Speaker, our hearts and our compassion reach out to his beloved Mary who stood side-by-side with him in his long years of service to this Nation. How greatly will our Senator be missed as America continues to wrestle with the many problems the Nation faces, but we know that his accomplishments, his abilities, his gracious attitude, and his dreams for America will live on and on as an inspiration to those who follow.

As we honor the life and contributions of this great man today, let us all, Mr. Speaker, determine more than ever to live up to his ideals and work harder than ever to accomplish his dreams.

Mr. FUQUA. Mr. Speaker, an era has ended.

Spessard Lindsey Holland passed away quietly in his sleep this weekend and this afternoon, the greatest statesman in the history of my State will be laid to rest.

No tribute could adequately express my personal admiration for Senator Holland and I feel I speak for Floridians everywhere in saying this "was indeed our finest."

Born 79 years ago in Bartow, Fla., he served with distinction in our armed services in France in World War I, before being elected prosecuting attorney, county judge, and State Senator for two terms.

His career of public service in office was to cover nearly half a century. Even today, many years since he served in the Florida Senate, what he did and what he stood for there serves as a high water mark. It was part of his life that whatever he did, he did well, and whatever he attempted, integrity was the most important ingredient.

He was elected our Governor and served during the critical World War II period and again his administration set new standards.

Florida turned to him again in nominating him to the U.S. Senate in 1946. Gov. Millard Caldwell appointed him to succeed the late Charles O. Andrews in that position on September 25 of that year.

It is this period for which Senator Holland will be most remembered. President Johnson once called him one of the six most powerful Senators. He was that and more.

Senator Holland was not a headline seeker—rather he was a workhorse. It was Spessard Holland that men in the Senate turned to for advice and counsel, for they knew that one thing mattered more to him than anything else—that was personal integrity.

I could not recount the times that I have gone to Senator Holland for advice. He was never too busy to try to help all who came to him, no matter what their station in life.

Today as his funeral is held, I cannot be with the family. This saddens me deeply.

A critical vote is coming up on the floor of the House. If Senator Holland were here, he would say that I should "tend to my duty" in representing the people he served so ably and well.

To his wife, Mary, and his family, I extend my deepest sympathy.

The flag of Florida flies at half mast in memory of its most distinguished citizen. The hearts of all Floridians are filled with

sorrow at his passing—but in a sense of tremendous pride that he was able to serve us for so long—and so well.

"Well done, thou good and faithful servant."

You will be deeply missed by those you leave behind.

Mr. WHITTEN. Mr. Speaker, I concur with my colleagues in expressing my sincere sorrow at the passing of the late Senator Spessard Holland.

It was my privilege to serve with him on the Appropriations Committee, he in the Senate. During this period we served on many conferences.

Mr. Speaker, I have never known a man of finer character, greater integrity, able, studious, and fine.

I shall always treasure my association with Senator Holland, whose influence on those around, on the Senate and House and for the good of the Nation—will last on and on.

Mr. BENNETT. Mr. Speaker, this country has never lost a greater statesman than the late Senator Spessard Holland; and I have never lost a truer friend.

The Senator, the son of a Confederate soldier, was a man of courage in Congress, as he was a hero on the battlefields of Europe in World War I, when he was awarded the Distinguished Service Cross. As Governor of Florida, and later as Senator here, he displayed the finest traits of manly character and leadership. Moreover, he was a man of compassion, which he showed in his legislative achievements and in his daily relationships with others.

His greatness will long live after him in the inspiration that he gave to those who knew him and of him. I am sure that we all join here today in sending to his lovely Mary and their fine children our deepest sympathy and our affectionate love.

Mr. FREY. Mr. Speaker, this Nation has lost a great American with the passing of Senator Spessard L. Holland. Florida has lost its most outstanding public official since it became a State.

Senator Holland was in every sense a gentleman. There never was any question of his integrity, his dedication or his deep belief in working to make this country better. Much has been and will be written about his legislative accomplishments. This is indeed fit and proper. But what helped distinguished Senator Holland from many other people is the fact that he would always do a little more, go a little farther, and be available to help whenever needed. This became especially apparent when I was elected to the 91st Congress. The Senator and his office went out of their way time and time again to help me out. In areas of importance to my district or to Florida, the Senator would be in there fighting, not giving mere lipservice.

It is extremely difficult to put into words my feeling and, I think, that of the people of Florida for the Senator. There is no question he was revered, respected, and loved. I am glad that these sentiments were conveyed to him during his lifetime. I know that I had the opportunity personally to do so and took full advantage of it. We extend our sorrow, sympathies, and prayers to the Senator's wife and family. While Senator Holland is no longer with us, the things he believed in and stood for will never die.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. This is District of Columbia Day. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

INCORPORATE GOLD STAR WIVES OF AMERICA

Mr. HUNGATE. Mr. Speaker, I call upon the bill (H.R. 10677) to incorporate in the District of Columbia the Gold Star Wives of America, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

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

Mr. BRINKLEY. Mr. Speaker, reserving the right to object, I would like to ask a question of the gentleman from Missouri.

Under this procedure, is it true that the vote will occur immediately?

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield, if recognized I propose to move to strike the requisite number of words, receive 5 minutes, and proceed in that fashion to explain the bill.

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

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 10677

A bill to incorporate in the District of Columbia the Gold Star Wives of America

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-named persons, to wit:

Mrs. Geraldine B. Chittick, 254 South Young Street, Frankfort, Indiana 46041;

Mrs. Franc F. Gray, 5019 South 13th Avenue, Minneapolis, Minnesota 55417;

Mrs. Mary E. Hunter, 244 Birch Street, Hapeville, Georgia 30054;

Mrs. Bernice E. Dodge, 4431 West Colorado Avenue, Denver, Colorado 80219;

Mrs. Larue Yessen, 1099 East 51st Avenue, Brooklyn, New York 11234;

Mrs. Edith V. Knowles, 420 Society Avenue, Albany, Georgia 31702;

Mrs. Virginia Montoya, 404 South Oneida Way, Denver, Colorado 80222;

Mrs. Joy Dove, 4224 Chowen Avenue South, Minneapolis, Minnesota 55410;

Mrs. Eleanor Powell, 4687 Pueblo Drive Southwest, Atlanta, Georgia 30331;

Mrs. Mary Naughton, 4 Warren Drive, Denbigh, Newport News, Virginia 23602;

Mrs. Rosemary M. Gilead, 1608 North Utah Street, Arlington, Virginia 22207;

Mrs. Pauline T. Bartsch, 9 East Narberth Terrace, Collingswood, New Jersey 08108;

Mrs. Maryellen McDonough, 1903 Summerdale Avenue, Chicago, Illinois 60640;

Mrs. Darlene McDonald, 842 North Karlov Avenue, Chicago, Illinois 60651;

Mrs. Eugenia Condell, 68 Belmont Drive, Little Rock, Arkansas 72204;

Mrs. Crystal Thrash, 222 Clermont Street, Saint Paul, Minnesota 55106;

Mrs. Eva Anderson, 4528 Bryant Avenue South, Minneapolis, Minnesota 55409;

Mrs. Etta Troisi, 133 Heath Street, Sommerville, Massachusetts 02145;

Mrs. Jo Troutt, Route Numbered 1, Old Rutledge Pike, Mascot, Tennessee 37806;

Mrs. Mickey Lovell, 862 Pontiac Street, Denver, Colorado 80220; and

Mrs. Stella Burket, 1025 Jamaica Court, Aurora, Colorado 80010;

and their successors, are hereby created and declared to be a body corporate of the District of Columbia by the name of Gold Star Wives of America (hereinafter referred to as the corporation), and by such name shall be known and have perpetual succession and the powers and limitations contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. A majority of the persons named in the first section of this Act is authorized to complete the organization of the corporation by the election of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary for such purpose.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(1) to assist in upholding the Constitution and laws of the United States of America, and to inculcate a sense of individual obligation to the community, State, and Nation;

(2) to honor the memory of those who made the supreme sacrifice in the service of our country;

(3) to safeguard and transmit to posterity the principles of justice, freedom, and democracy for which members of our armed services fought and died;

(4) to provide the benefits of a happy, healthful, and wholesome life to minor children of persons who died in the service of our country;

(5) to promote activities and interests designed to foster among its members the proper mental attitude to face the future with courage; and

(6) to aid, whenever necessary, widows and children of persons who died in the service of our country.

CORPORATE POWERS

SEC. 4. The corporation shall power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to choose such officers, directors, trustees, managers, agents, and employees as the business of the corporation may require;

(4) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the laws of the United States or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(5) to contract and be contracted with;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to take and hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real or personal, necessary for attaining the objects and carrying into effect the purposes of the corporation, subject to applicable provisions of law in any State (A) governing the amount or kind of real and personal property which may be held by, or (B) otherwise limiting or controlling the ownership of real or personal property by a corporation operating in such State;

(8) to transfer, encumber, and convey real or personal property;

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, subject to all applicable provisions of Federal or State law;

(10) to adopt, alter, use, and display such emblems, seals, and badges as it may determine; and

(11) to do any and all acts and things necessary and proper to carry out the objects and purposes of the corporation and, for such purpose, the corporation shall also have, in addition to the foregoing in this section and subsection, the rights, powers, duties, and liabilities of the existing corporation referred to in section 17 as far as they are not modified or superseded by this Act.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Frankfort, Indiana, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various States and possessions of the United States.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP; VOTING RIGHTS

SEC. 6. (a) Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

(b) Each member of the corporation, other than honorary and associate members, shall have the right to vote in accordance with the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 7. (a) Upon enactment of this Act the membership of the initial board of directors of the corporation shall consist of the following persons—

Mrs. Joy Dove, chairman, 4224 Chowen Avenue South, Minneapolis, Minnesota 55410.

Mrs. Jane Payne, secretary, 2929 Emory Street, Columbus, Georgia 31903.

Mrs. Stella Burket, 1025 Jamaica Court, Aurora, Colorado 80010.

Mrs. Christine Kinnard, 303 Santa Clara Drive, Vista, California 92083.

Mrs. Jean Eastman, 1112 Rosemary Lane, Ozark, Alabama 36360.

Mrs. Mary Ondrey, Post Office Box 101, Eatontown, New Jersey 07724.

Mrs. Maryellen McDonough, 1903 Summerdale Avenue, Chicago, Illinois 60640.

Mrs. Geraldine Chittick, Post Office Box 306, Frankfort, Indiana 46041.

Mrs. Mickey Lovell, 862 Pontiac Street, Denver, Colorado 80220.

Mrs. Lavone Tueting, 5325 Beard Avenue South, Minneapolis, Minnesota 55410.

Mrs. Betty Keaton, 1407 Merchants, Leesville, Louisiana 71446.

Mrs. Karen Sintic, 2244 West Taylor Street, Chicago, Illinois 60612.

Mrs. Mary Gallota, 117 Pine Street, Lowell, Massachusetts 01851.

Mrs. Lorraine Patterson, 320 Penwood Road, Silver Spring, Maryland 20901.

Mrs. Carrie Young, 1001 North Compton, Apartment 1502, Saint Louis, Missouri 63106.

Mrs. Pauline Bartsch, 9 East Narberth Terrace, Collingswood, New Jersey 08108.

(b) Thereafter, the board of directors of the corporation shall consist of such number (not less than fifteen), shall be selected in such manner (including the filling of vacancies), and shall serve for such term as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation and shall, during the intervals between corporation meetings, be responsible for the general policies and program of the corporation. The board shall be responsible for all finance.

OFFICERS; ELECTIONS OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be a chairman of the board of directors, a president, a vice president, and a secretary-treasurer. The duties of the officers shall be as prescribed in the constitution and bylaws of the corporation.

(b) Officers shall be elected annually at the annual meeting of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director, or be distributable to any such person otherwise than upon dissolution or final liquidation of the corporation as provided in section 15 of this Act. Nothing in this subsection, however, shall be construed to prevent the payment of compensation to officers of the corporation in amounts approved by the executive committee of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan to an officer, director, or employee of the corporation, and any officer who participates in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers, directors, and duly appointed agents as such, shall not contribute to or otherwise support or assist any political party or candidate for office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare nor pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any of the authority of the board of directors; and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. (a) The accounts of the corporation shall be audited annually, in accordance with generally accepted auditing standards, by independent certified public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be submitted to the Congress not later than six months following the close of the fiscal year for which the audit was made. The report shall set forth the scope of the audit and shall include such statements as are necessary to present fairly the corporation's assets and liabilities, surplus or deficit with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the corporation's income and expenses during the year including the results of any trading, manufacturing, publishing, or other commercial-type endeavor carried on by the corporation, together with the independent auditor's opinion of those statements. The reports shall not be printed as a public document.

LIQUIDATION

SEC. 15. Upon final dissolution or liquidation of the corporation, and after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to the use of the name Gold Star Wives of America. The corporation shall have the exclusive and sole right to use, or to allow or refuse the use of, such emblems, seals, and badges as have heretofore been used by the corporation referred to in section 17 in carrying out its program. Nothing in this Act shall interfere or conflict with established or vested rights.

TRANSFER OF ASSETS

SEC. 17. The corporation may acquire the assets of the Gold Star Wives of America, Incorporated, chartered as a nonprofit organization in the State of New York, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the State of New York applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Mr. HUNGATE. Mr. Speaker, I move to strike the last word.

The SPEAKER. The gentleman from Missouri is recognized for 5 minutes.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation.

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

There was no objection.

Mr. HUNGATE. Mr. Speaker, the purpose of the bill, H.R. 10677, is to grant a Federal charter to the Gold Star Wives of America.

NATURE OF THE ORGANIZATION

Gold Star Wives of America is a national organization established in the wake of World War II by the widows of members of the Armed Forces who died while in the service of our country, either in combat or of a service-connected disability. The organization was chartered in the State of New Jersey on December 5, 1955, and its objects and purposes are as follows:

First. To assist in upholding the Constitution and laws of the United States of America, and to inculcate a sense of

individual obligation to the community, State, and Nation.

Second. To honor the memory of those who made the supreme sacrifice in the service of our country.

Third. To safeguard and transmit to posterity the principles of justice, freedom, and democracy for which members of our armed services fought and died.

Fourth. To provide the benefits of a happy, healthful, and wholesome life to minor children of persons who died in the service of our country.

Fifth. To promote activities and interests designed to foster among its members the proper mental attitude to face the future with courage.

Sixth. To aid, when necessary, the widows and children of persons who died in the service of our country.

Seventh. To do any and all things necessary and incidental to carry out the general purposes and objects of this organization.

SCOPE OF THE ORGANIZATION

Activities and membership of the Gold Star Wives of America are nationwide, with members in nearly all States and active chapters in half of the States. As a result of the Vietnam conflict, the scope of the opportunities to be of service to those with whom the members had a common bond increased tremendously. Membership grew rapidly throughout the country, and the number of chapters doubled in a short time, as hundreds of new widows turned to Gold Star Wives of America for assistance with their financial and emotional problems.

The present membership of this organization, by States, is as follows:

COUNT OF GOLD STAR WIVES BY STATES

Alabama	100
Alaska	1
Arizona	20
Arkansas	17
California	197
Colorado	109
Connecticut	19
Delaware	6
District of Columbia	6
Florida	82
Georgia	220
Hawaii	14
Idaho	7
Illinois	85
Indiana	58
Iowa	17
Kansas	46
Kentucky	34
Louisiana	44
Maine	6
Maryland	49
Massachusetts	75
Michigan	83
Minnesota	61
Mississippi	20
Missouri	55
Montana	7
Nebraska	16
Nevada	6
New Hampshire	10
New Jersey	105
New Mexico	8
New York	126
North Carolina	95
North Dakota	2
Ohio	89
Oklahoma	56
Oregon	19
Pennsylvania	108
Rhode Island	4
South Carolina	37
South Dakota	7
Tennessee	33
Texas	152
Utah	16
Vermont	3
Virginia	99
Washington	30
West Virginia	16
Wisconsin	19
Wyoming	3
Comm. of Puerto Rico	4
*Australia	1
*France	1
*Germany	1
Total	2,504

WORK OF THE ORGANIZATION

Your committee is advised that Gold Star Wives of America is deeply involved, to a greater degree than any other organization, in the vital service of immediate and personal counseling and assistance to service widows at the time of the bereavement. This service consists not only of advice and help in connection with these widows' newly created financial and other practical problems, but also of invaluable emotional and psychological support which could be offered only by those who have suffered the same loss.

In addition to this highly personal service, Gold Star Wives of America also participates in many more general activities as well. For example, in 1969 this organization presented the 52 State markers for the Medal of Honor Groves at Valley Forge, Pa.; in 1970, at its national convention in Minneapolis, Gold Star Wives of America presented the Fort Snelling Veterans' Administration Hospital with a sound-slide projector at a cost of about $1,000; and in 1971, at their national convention in San Diego, this fine organization presented the veterans hospital in that city with a check for $500 to be used in their new facility.

A summary of the activities of Gold Star Wives of America during the year ending May 31, 1971, is the following:

SYNOPSIS OF ACTIVITIES FOR GOLD STAR WIVES OF AMERICA, INC., FISCAL YEAR 1971

(Generally nationwide activities unless otherwise noted)

Participation with other National Service Organizations: Lowell, Mass., Veterans Council; Disabled Veterans of America; American Legion POW–MIA Prayer Sunday, Burlington County, N.J.; DAV Ceremonies, Marine Corps Services, New York State; Brentwood VFW, Pittsburgh, Pa. area; Loyalty Day Celebrations with VFW and American Legion; American War Dads Parade, Topeka, Kans.; and Veterans Administration Volunteer Services.

Volunteer work with: Poverty Program Day Camp, Burlington, N.J.; Patterson Army Hospital, N.J.; New York Veterans Hospital, New York City; USO; Red Cross; YMCA; Army Community Service Volunteers; Cerebral Palsy; March of Dimes; Muscular Dystrophy; Walson Army Hospital, Fort Dix, N.J.; Womack Army Hospital, Fort Bragg, N.C.; Blood Bank, Fort Rucker, Ala.; Hines Veterans Hospital, Chicago, Ill.; Fort Snelling VA Hospital, Minneapolis, Minn.; Multiple Sclerosis; Cancer Fund Drive; Oklahoma City VA Hospital, Topeka, Kans.; and Salvation Army, Denver, Colo.

Donations: Cards, letters, gifts to men in Vietnam; Clothing to orphanages; To needy: Food, furniture, cash; Aided families at Thanksgiving and Christmas, Ft. Rucker, Ala.; Aided two rest homes, Toledo, Ohio; Hope Retarded School, Denver, Colo.; First Creek Retarded School, Denver, Colo.; Clothes to Oklahoma Indians, Denver, Colo.; "Highway of Flags," Denver, Colo.; Aided three families, Denver, Colo.; Aided a Mexican Orphanage, Denver, Colo.; Educational TV, Denver, Colo.; and Bowled with wheelchair patients, Minneapolis, Minn.

NEED FOR LEGISLATION

Your committee is advised that Gold Star Wives of America has repeatedly been hindered and prevented from giving assistance to the young widows who desperately need the help that could have been available to them through this organization, solely because of their lack of a Federal charter. Efforts to make Gold Star Wives of America known through survivor assistance officers at military installations have been refused on the basis that they are not recognized as a reputable organization, while in other instances, contacts at military bases have resulted in inquiries being made of the Department of Defense as to the reliability of Gold Star Wives of America. Officials of the Veterans Administration, we are advised, have suggested that a Federal charter should be priority legislation for Gold Star Wives of America, as a means of establishing the status and integrity of this relatively young organization. The organization could thus acquire the respect and stature which come only to those organizations who are so recognized by the Congress.

CONCLUSIONS

Your committee believes that the accomplishments of Gold Star Wives of America are comparable with those of various veterans' organizations which have been granted Federal charters, and that this organization does provide in many respects a unique service which is not available from any other organization. Furthermore, for several years Gold Star Wives of America has been participating actively in the Annual Women's Forum on National Security, which is composed of 16 women's organizations, most of which have received Federal charters.

This committee believes that Gold Star Wives of America more than meets the specific standards set up as prerequisites to national charters, and that to deny them such incorporation would be discriminatory. We urge the enactment of this proposed legislation, therefore, in order to aid these patriotic women, who have themselves lost husbands in the defense of our country, the better to assist others in similar circumstances.

A public hearing on this measure was conducted on October 18, 1971. No opposition was expressed to the enactment of this proposed legislation.

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

Mr. HUNGATE. I yield to the gentleman from Minnesota.

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

Mr. Speaker, I want to commend my colleagues, the gentleman from New Jersey (Mr. FORSYTHE), and the gentleman from Georgia (Mr. BRINKLEY), who are two of the leading authors of this bill. If the gentlemen have any desire to make any comments at this point, or if they wish to insert remarks in the RECORD, I believe that we should accommo-

date them in whatever they may desire to do.

Mr. HUNGATE. Mr. Speaker, I would state that I will be very pleased to yield to the gentleman from New Jersey (Mr. FORSYTHE). The committee was very appreciative to the gentleman for calling this very important legislation, which has been long needed, to our attention.

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

Mr. HUNGATE. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for yielding, and I rise to support this bill. I think it is a very important bill.

Mr. Speaker, today we are considering H.R. 10677, granting a charter to the Gold Star Wives of America.

This is an organization of wives whose husbands have died in the uniform of our country. They are organized to help women who find themselves newly cast in the same plight.

H.R. 10677 incorporates the Gold Star Wives in the District of Columbia. It does more, however. It will lend to this worthy organization the recognition by Congress that it needs to be of assistance to the widows of our servicemen.

Our military installations are naturally extremely careful about just whom they cooperate with in cases involving new widows of deceased servicemen. And well they should be careful.

With congressional recognition, then, the Gold Star Wives will be in a solid position to provide the assistance that they want to offer.

Gold Star Wives cooperate with other veterans' organizations and Gold Star volunteers are involved in many charitable community activities.

They work with veterans hospitals, do volunteer work in military hospitals, and assist the USO and the Red Cross. They work with community drives such as the March of Dimes and multiple sclerosis and cancer fund.

They send cards, letters, and gifts to men in Vietnam. They collect clothing for orphanages and assist needy families.

However, their primary purpose is to help the widow of the serviceman by helping her understand what benefits are available, and by offering understanding and reassurance.

Listen to the words of Mrs. Patricia Barbee, a member of the Gold Star Wives from my district in New Jersey:

One dreary evening in November, 1968, I realized that my husband was never returning. On that particular night I wanted to die. I had no one to speak to so I called Mrs. Bartsch (the member of the Gold Star Wives who had contacted her) and cried on her shoulders. Only another widow in my situation could appreciate how I felt that night. From her I did not get the usual, "Don't worry, you're young and you'll find another husband," that I've heard from people whose mates are living.

Because of her kind words and our national newsletters and correspondence from others I pulled out of my depressed state. I learned that my widow's dependent ID card that I received was not only good for the commissary and exchanges, but still good for medical attention in military and public service health clinics and theater . . ."

Gold Star Wives of America has become a part of me. I have been helped emotionally and psychologically.

Gentlemen, Mrs. Barbee is representative of all too many young women all across our country. I think we should help Gold Star Wives lend them a helping hand.

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

Mr. HUNGATE. I yield to the gentleman from Georgia (Mr. BRINKLEY), who has worked hard for this bill.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding, and I rise in support also of this legislation.

Earlier this year I was joined by the gentleman from Georgia (Mr. MATHIS), and many of our other colleagues, in support of identical legislation. In this regard I would like to direct a question, if I could, to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, I will be pleased to respond to the gentleman's question.

Mr. BRINKLEY. Mr. Speaker, my question is this: Would the scope of the charter which would be granted to the Gold Star Wives under this bill be anything less than it would otherwise have been under legislation which would have emanated and would have been passed upon by the Committee on the Judiciary?

Mr. HUNGATE. In reply to the gentleman from Georgia (Mr. BRINKLEY), who has helped write this legislation, may I state that I am not certain that there is any difference. The difference, if any, was not called to the attention of our committee, I will state that, and there was no intention on the part of the committee to grant them a charter that would be any less than any other federally chartered organization.

Mr. BRINKLEY. If the gentleman will yield further, I would like to address this question to the author of the bill, the gentleman from New Jersey, (Mr. FORSYTHE) as to whether or not the scope of this charter would be any less than any other federally chartered group?

Mr. FORSYTHE. If the gentleman will yield as I understand, it will not, and we researched this very carefully to be sure that this was so.

Mr. BRINKLEY. I thank the gentleman.

Mr. HUNGATE. Mr. Speaker, I thank the gentleman from Georgia and our other colleagues for their contributions.

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.

APPOINTMENT OF CONFEREES ON S. 1483, FARM CREDIT ACT, 1971

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1483) to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

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

CHANCERY ACT AMENDMENTS

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 11490) to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 11490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act entitled "An Act providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and the uses of land in the District of Columbia, and for other purposes", approved June 20, 1938 (D.C. Code, sec. 5–418), is amended—

(1) by inserting "or subsection (e)" immediately before "of this section" in subsection (c); and

(2) by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

"(e)(1) If two or more foreign governments lawfully use for chancery purposes at least two lots within one side of a block of a street in a district or zone of the District of Columbia restricted in accordance with this Act to use for residential purposes, then any foreign government may construct, alter, repair, convert, or occupy a building for chancery purposes on any adjoining lot which is on the same side of the block as such lot if the Board of Zoning Adjustment makes the findings described in paragraphs (1), (3), and (4) of subsection (d) with respect to such building.

"(2) If one foreign government lawfully uses for chancery purposes one lot within one side of a block of a street containing five or less lots of record on the date of enactment of this subsection, then any foreign government may construct, alter, repair, convert, or occupy a building for chancery purposes on any other lot which is on the same side of the block as such lot if the Board of Zoning Adjustment makes the findings described in paragraphs (1), (3), and (4) of subsection (d) with respect to such building."

(Mr. STUCKEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. STUCKEY. Mr. Speaker, the purpose of the bill, H.R. 11490, is to amend the act of October 13, 1964 (78 Stat. 1091; D.C. Code sec. 5–418(a)) as amended, to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia so as to provide a formula under which real property fronting on one side of a given block, in which block frontage there are two or more chanceries of foreign governments lawfully

located, may be used for chancery purposes if the site adjoins a chancery or where the block contains five or less lots on a side and a chancery is lawfully located on one lot then other real property on the same side of the block may be used for chancery purposes.

The original bill as introduced, H.R. 5672, was limited to the last above situation and directed toward land use of a very short block on Massachusetts Avenue between 34th Place and 35 Street NW., in which block the Sudanese Chancery is located. During hearings on the bill, testimony was presented by the District of Columbia Government indicating the impossibility of approving the land use requested because of limitations of the 1964 amendments but suggesting that legislation similar to H.R. 8656 of the 91st Congress, with modifications reaching the type of situation described above, would be a reasonable method of preserving the substance of existing limitations on chancery locations but permitting compatible use of additional property where chancery uses were established.

The pending bill, H.R. 11490, is designed to combine H.R. 5672 and the proposal of the previous Congress—favorably reported and approved by the House, House Report No. 91–848. The language of the bill incorporates the concept of zoning law that land uses which are similar and compatible are properly allowable in the same neighborhoods. The history of the problem in the District indicates the origin of the difficulty where in a neighborhood numerous chanceries are now located but additional ones are not permitted.

BACKGROUND

Foreign governments were permitted to locate their chanceries, prior to 1957, in areas zoned for any land use except for industrial purposes. Following a review of zoning regulations, the Commissioners in the District of Columbia in 1957 adopted new regulations relating to zoning in the District of Columbia. At that time the use of land for chancery purposes was found to be a business use and therefore not compatible with residential uses. Thus, limitations for the first time were established relating to location of new chanceries in residential areas.

The Chancery Act of 1964 provided the first statutory limitations on land use which relate to the location of chanceries in the District of Columbia. While not affecting any lawful existing use of real property for chancery purposes or any lawful agreement for use of residential land for such purposes, the Chancery Act of 1964 restricted the location of new chanceries to those areas zoned for medium density and high density apartment development, special purpose use, and commercial uses. Prior to that act and since existing lawful chancery uses have been located predominantly in residential areas.

During the hearings and studies which preceded the enactment of the Chancery Act of 1964, your committee gave consideration to the establishment of an area for development of a chancery enclave. The governments of foreign nations showed little interest in such a proposal, and State Department representatives expressed strong disapproval of the idea. However, since the enactment of the Chancery Act of 1964, at least two actions have been taken toward the establishment of such an enclave with little acceptance of this concept by foreign governments.

While the Chancery Act of 1964 had the desired effect of preventing the proliferation of new business uses into residential areas within the District of Columbia, it also produced numerous hardship situations and contradictions which have been the subject of further legislative action by the Congress. The act has already been amended several times. One contradictory result, of which the subject of the pending bill is an example, is that, although there are specific areas which are zoned residential and which may be substantially devoted to chancery uses. The remaining residential properties in such areas must be continued in residential category and may not be used for the same purpose as that which is predominant in the surrounding land and structures. This result is in sharp variance with the principles and purposes of zoning.

LIMITED APPLICATION

The terms of the pending bill, as amended, are in general harmony with the purposes of the Chancery Act of 1964. That act, as proposed to be amended by the pending bill, would still prohibit the location of chanceries in areas where no chancery uses exist unless the land is zoned for use for at least medium-density highrise apartment development.

The bill, as amended, would remove from existing law the service contradiction which may exist under its provisions. This may be illustrated by noting that there are existing residential areas in the District of Columbia where, within a single block, the predominant or almost exclusive use of land is for chancery purposes. Under present law, despite such commercial use, the area is still zoned as single-family residential. One or two properties, not used for chancery purposes, may not be granted highrise or commercial zoning to accommodate the property to chancery use since such zoning would constitute spot zoning which is generally subject to legal attack. Additionally, such spot zoning could open the way to highrise apartment or commercial development which may be neither necessary nor desirable for the particular area and would alter the low-density residential character of the neighborhood. The terms of the bill would make possible the use of some residential property in city block areas where chancery usages are already established, without the necessity of altering the residential zoning category applying to the land use in such city block.

HARDSHIP

Since the great majority of foreign government chanceries are located in residential areas, and predominately in single-family-dwelling residential areas, the owners of residential property in those blocks, where chancery uses are already established, find themselves deprived of the normal freedom of the use of the property. Chanceries are commonly located in large residences without substantial alteration of the structures. Thus the residential appearance of the neighborhood is preserved. Owners of such large residences in city blocks where chancery uses exist, commonly find it difficult or impossible to rent such large dwellings for residential use. Since alternate uses for real property are extremely limited in areas zoned for single-family-dwelling use, the owners of such property may find it impossible to rent or sell such property for residential use. The bill, as amended, would relieve this situation by permitting the use of such properties for chancery purposes where two or more chancery uses are already lawfully in use along one side of a block frontage or, in the case of a short block of 5 lots, or less, there is one established lawful chancery use on one side of the block frontage. In the case of the usual city block, the additional usage would be adjacent to one of the established uses. It should be noted that in either case, the same limitations stated in existing law concerning height, bulk, parking and compatibility must be met if the chancery use is to be approved.

COMMITTEE HEARINGS

The concepts involved in the pending bill, H.R. 11490, were the subject of public hearings before your committee in connection with H.R. 5672 of this Congress and H.R. 8656 of the 91st Congress. Information was submitted to your committee concerning the interest of the governments of the Congo and Peru to purchase certain property for use for chancery purposes. In both cases, applications had been filed under zoning laws of the District with the result that the requests were denied. Approval of such a zoning change would have been spot zoning and subject to attack by court action and would have permitted high-rise-medium-density apartment, high-density apartment, or commercial use in an area zoned for single family dwelling residential use. Such a use would have been much more damaging to the character of the community than the use of property subject to the requirements that maintain compatible uses in the neighborhood.

It may be observed in this connection that there are only about 135 foreign governments involved in the matter of location of chanceries. Many of these have essentially permanent locations, and relatively few of the remainder would be making temporary or permanent location for a chancery in any given year.

The bill as amended would continue to provide the protections of the Chancery Act of 1964 to all residential areas of the District of Columbia where no chanceries are lawfully located. It would give flexibility by providing possible locations for chancery uses in those block areas where chanceries are already located without providing any change in zoning which could open the way to highrise apartment or commercial development. Large residences located in the midst of chanceries which are not desirable for residential use or similar purposes but desirable for chancery use might be so used.

COST OF THE LEGISLATION

Every foreign government which has in the District of Columbia accredited rep-

resentatives for diplomatic purposes is entitled to establish a location for an embassy and a chancery, and such property is exempt from the imposition of real property taxes. The real property tax exemption for any nation may vary according to the value of the property on which the chancery is located. Since the language of the bill is general and several locations may become subjects of interest, no precise estimate of the difference between the value of any present tax exemption and an exemption which might accrue under the bill can be made. In any event, the net difference in tax receipts to the District would range between a plus or minus of a few thousand dollars.

Mr. GROSS. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I would like to ask the gentleman what prompts this legislation? It has all the appearances of being designed for a special purpose of some kind.

Mr. STUCKEY. The problem that arose was that the zoning board of the District of Columbia did not feel that it was within their power to approve this zoning.

The zoning board, as well as the owner of the property, were both at the hearings. They sat down together and tried to work out a resolution of this problem. They both came back to us and said they felt that under the existing laws, this problem could not be resolved. Both of them are in accord on the bill we have here.

Mr. GROSS. Is this legislation not designed for some particular purpose to take care of someone or a particular embassy?

Mr. STUCKEY. It is a general bill and would apply to all those meeting the requirements.

Mr. GROSS. I do not doubt that it is a general bill, but is it not here mostly for one particular case?

Mr. STUCKEY. The property happens to exist in this particular instance, that is correct.

Mr. GROSS. What is the embassy or the chancery? What country is involved that requires this legislation?

Mr. STUCKEY. The country, I believe, is Peru in this instance and I think Sudan is also one of the countries.

Mr. GROSS. Does this give them any extraordinary privilege of any kind?

Mr. STUCKEY. If the gentleman has a minute, let me read briefly what this legislation does.

The bill was favorably reported to the House by the District Committee and is the same in substance and effect to similar legislation that was approved by the House in the 91st Congress, which was already passed one time.

That legislation provided that where there are 2 or more lots used for chancery purposes on one side of a block, a lot adjacent to such existing chanceries might be used by a foreign government for chancery purposes. Combined with that provision is a new provision, limited to very short blocks containing 5 or less lots, which harmonizes with the other part of the bill. In the case of the short block, if there are 5 lots or less on one side of a block and one chancery is located there, that any other lot may be used for similar purposes.

Mr. GROSS. I have read that language in the report. In the 91st Congress I believe we approved legislation dealing with chanceries. Was that legislation insufficient to take care of this situation? Or is the gentleman aware of what was passed in the 91st Congress?

Mr. STUCKEY. The Senate did not act on the bill. It was passed through the House.

Mr. GROSS. Oh, the Senate did not act on that legislation and it expired at the end of the 91st Congress; is that correct?

Mr. STUCKEY. That is correct.

Mr. GROSS. Is this the same legislation that was called up at that time?

Mr. STUCKEY. Virtually the same.

Mr. GROSS. I thank the gentleman from Georgia for his explanation.

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

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

Mr. HALL. I appreciate the gentleman's yielding. I would like to ask a proponent of the bill if there has been any coordination as to the end results of chanceries that under this revision of the Chanceries Act might be side by each in the same block? It would seem to me that that would be a proper place for coordination by the Committee on the District of Columbia with either our Department of State, which, by the way, opposed the Chancery Act of 1964, according to the committee's own report, or the Department of Defense, as to possible subversion intent or counterintelligence by and/or in those chanceries.

Mr. HALL. Mr. Speaker, I move to strike the last word.

The SPEAKER. The gentleman from Missouri is recognized.

Mr. HALL. Mr. Speaker, does the gentleman from Georgia handling the bill have any information as to whether this necessary staff action of jurisdiction has taken place or not?

Mr. STUCKEY. As I understand, the State Department has never supported it.

Mr. HALL. I am sorry, I did not hear the gentleman. The State Department has not what?

Mr. STUCKEY. Has not supported—is the gentleman speaking of enclaves?

Mr. HALL. I am speaking of H.R. 11490, the bill before us, in view of the fact that the committee's own report says the Department of State expressed strong disapproval of the idea before. That is two-thirds the way down on page 2.

Mr. STUCKEY. The State Department did not offer any testimony for or against the bill. As I said earlier, it was really general legislation and in relation to all the other homes in the residential areas that would fall within this requirement.

Mr. HALL. That is pretty obvious, Mr. Speaker. There are no departmental reports in the report. Still the report says they did oppose the action previously. I just do not believe that we ought to pass by unanimous consent or a straight vote, without any great amount of debate, legislation where we sit as the zoning board in the Congress for the District of Columbia to allow use in any given block of chanceries for that purpose, regardless of their locus, when they might be juxtaposed or placed, the lots, side by each. This just is not good procedure. If the Department of Defense and the Department of State have not been coordinated with, I think this bill should be placed in abeyance or defeated today.

Mr. STUCKEY. The State Department has no objection to the bill.

Mr. HALL. Where does it say that in the report?

Mr. STUCKEY. The staff advises they had no objection.

Mr. HALL. I presume the staff are the gentleman who wrote the report itself from which I quote. It states—

> The governments of foreign nations showed little interest in such a proposal, and State Department representatives expressed strong disapproval of the idea. However, since the enactment of the Chancery Act of 1964, at least two actions have been taken toward the establishment of such an enclave with little acceptance of this concept by foreign governments.

Mr. STUCKEY. They are opposed to enclaves, but they are not opposed to the bill itself.

Mr. HALL. That is what I have been fishing for all the time.

On the other hand, are they in favor of it?

Mr. STUCKEY. I do not know whether they are in favor of it. I said simply the State Department was not opposing the bill.

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.

CHARITABLE TRUSTS

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 11489) to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 11489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 21 of the District of Columbia Code is amended by adding the following new chapter:

"Chapter 18.—CHARITABLE AND SPLIT-INTEREST TRUSTS

"Sec.
"21–1801. Charitable and split-interest trusts.
"§ 21–1801. Charitable and split-interest trusts

"(a) Notwithstanding any provision to the contrary in the governing instrument or under any law applicable to the District of Columbia (except as provided in subsection (e) of this section), the governing instrument of any trust which is treated during a particular year as a private foundation described in section 509 of the Internal Revenue Code of 1954 (including any nonexempt charitable trust described in section 4947(a)(1) of the Code which is treated as a private foundation) and the governing instrument of any nonexempt split-interest trust described in section 4947(a)(2) of the Code (but only to the extent that section 508(e) of the Code is applicable to such nonexempt split-interest trust) shall be deemed during such particular year to contain all of the following provisions:

"(1) The trust shall not engage in any act of self-dealing which is taxable under section 4941 of the Code.

"(2) The trust shall make distributions at such time and in such manner as not to subject it to tax under section 4942 of the Code.

"(3) The trust shall not retain any excess business holdings which would subject it to tax under section 4943 of the Code.

"(4) The trust shall not make any investments which would subject it to tax under section 4944 of the Code.

"(5) The trust shall not make any taxable expenditures which would subject it to tax under section 4945 of the Code.

With respect to any such trust created prior to January 1, 1970, subsection (a) shall apply to taxable years beginning on or after January 1, 1972.

"(b) Notwithstanding any provision to the contrary in the governing instrument, the trustee or trustees of any trust described in subsection (a), other than a trust described in section 4947(a)(2) of the Code, may, without application to any court, amend the governing instrument expressly to include the provisions required by section 508(e) of the Code by executing a written amendment to the trust and delivering a copy thereof, by certified mail, to each named beneficiary, if any.

"(c) Notwithstanding any provision to the contrary in the governing instrument, the trustee or trustees of any trust described in section 4947(a)(2) of the Code to which subsection (a) is applicable may, after obtaining the written consent of the creator of such trust if then living and competent to give such consent, and without application to any court, amend the governing instrument expressly to include the provisions required by section 508(e) of the Code by executing a written amendment to the trust and delivering a copy thereof by certified mail, to each named beneficiary, if any.

"(d) Notwithstanding any provision to the contrary in the governing instrument, the trustee or trustees of any trust described in section 4947(a)(2) of the Code to which subsection (a) is applicable, with the consent of each beneficiary named in such governing instrument, may, without application to any court, amend the governing instrument to conform to the provisions of section 664 of the Code by executing a written amendment to the trust for such purpose. Consent shall not be required as to individual named beneficiaries not living at the time of the amendment. In the case of any individual beneficiary not competent to give consent, the consent of a guardian, appointed by a court of competent jurisdiction, shall be treated as consent of the beneficiary. In the case of any amendment to a trust created by will, such amendment may, if provided in the amendment, be deemed to apply as of the date of death of the testator.

"(e) The provisions of subsection (a) shall not apply to any trust to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the governing instrument and that such instrument may not properly be amended to conform with subsection (a).

"(f) For purposes of this section, the term 'trust' includes (1) any trust created by will of a resident of the District of Columbia admitted to probate in the District of Columbia, (2) any trust created by a resident of the District of Columbia and executed in the District of Columbia, (3) any trust of which the trustee or a co-trustee is a bank or trust company doing business in the District of Columbia, (4) any trust of which a majority of the trustees are resident in the District of Columbia, (5) any trust of real property located in the District of Columbia, and (6) any trust the governing instrument of which provides that it is governed by the laws of the District of Columbia.

"(g) For the purposes of this section, the term 'Code' means the Internal Revenue Code of 1954."

SEC. 2. (a) Notwithstanding any provision to the contrary in the governing instrument or under any law applicable to the District of Columbia (except as provided in subsection (c) of this section), the governing instrument of any corporation organized under the laws of the District of Columbia, or under any Act of Congress applicable to the District of Columbia, which is treated during a particular year as a private foundation described in section 509 of the Internal Revenue Code of 1954 shall be deemed during such particular year to contain the following provisions:

(1) The corporation shall not engage in any act of self-dealing which is taxable under section 4941 of the Code.

(2) The corporation shall make distributions at such time and in such manner as not to subject it to tax under section 4942 of the Code.

(3) The corporation shall not retain any excess business holdings which would subject it to tax under section 4943 of the Code.

(4) The corporation shall not make any investments which would subject it to tax under section 4944 of the Code.

(5) The corporation shall not make any taxable expenditures which would subject it to tax under section 4945 of the Code.

With respect to any such corporation organized prior to January 1, 1970, subsection (a) shall apply to taxable years beginning on or after January 1, 1972.

(b) The governing instrument of any corporation described in subsection (a) may be amended, in the manner provided by law for amendment of such governing instrument, expressly to include the provisions required by section 508(e) of the Code.

(c) The provisions of subsection (a) shall not apply to any corporation to the extent that its governing instrument is amended in the manner provided by law for amendment of such governing instrument, expressly to exclude the application of subsection (a).

(d) For purposes of this section, the term "corporation" includes an association (other than an association treated as a trust described in section 1801 of title 21 of the District of Columbia Code).

(e) For the purposes of this section, the term "Code" means the Internal Revenue Code of 1954.

SEC. 3. Except as otherwise provided in this Act, or in the amendments made by this Act, the provisions of this Act shall first apply with respect to taxable years of trusts and corporations beginning on or after January 1, 1970.

SEC. 4. The table of chapters for title 21 of the District of Columbia Code is amended by inserting after the item relating to chapter 17 the following:

"18. Charitable and split-interest trusts."

With the following committee amendments:

On page 2, line 5, strike out "(d)" and insert in lieu thereof "(e)".

On page 5, line 24, insert immediately after "Columbia" the following: ", or under any Act of Congress applicable to the District of Columbia,".

The committee amendments were agreed to.

Mr. STUCKEY. Mr. Speaker, the purpose of H.R. 11489, as amended, is to facilitate the amendment of the governing instruments of certain charitable and split-interest trusts, and certain corporations which are subject to the jurisdiction of the District of Columbia and which are treated as "private foundations" for Federal tax purposes, in order to conform to the requirements of Section 508 of the Federal Internal Revenue Code, as added by the Tax Reform Act of 1969, Public Law 91–172.

This is accomplished in H.R. 11489 by amending title I of the District of Columbia Code to add a new chapter relating to charitable and split-interest trusts, which provides, in effect, that certain provisions required by the Internal Revenue Code are deemed to be included in the governing instruments of the corporations in question.

Time is of the essence with respect to the proposed legislation, because if the same is not enacted into law prior to January 1, 1972, most, if not all, trusts in the District of Columbia with charitable beneficiaries and some charitable corporations will each be required to institute separate court proceedings to amend their individual charters to include the required provisions.

Enactment of this legislation, therefore, before January 1, 1972, will free the courts from burdensome litigation and will protect assets donated for charitable purposes, and thereby will carry out the intent of Congress in the Tax Reform Act to insure that the funds of entities granted tax benefits are totally devoted to charitable purposes.

As of August 24, 1971, the legislatures of at least 35 States have enacted legislation intended to comply with the requirements of the Federal Internal Revenue Code in question. Both Maryland and Virginia have enacted such legislation as have the other States as follows:

States which have enacted similar legislation to conform governing instruments of charitable trusts and corporations to requirements tax reform act of 1969 are as follows:

Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri.

Nebraska, Nevada, New Hampshire, New

York, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina.

Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin.

INTERNAL REVENUE CODE AND TAX REFORM ACT REQUIREMENT

Section 509(a) of the Internal Revenue Code of 1954 contains a definition of "private foundations," which covers the broad range of trusts and corporations which are organized and operated for religious, charitable, literary, and educational purposes.

Section 508(d)(e) of the Internal Revenue Code, amended by the Tax Reform Act of 1969—Public Law 91–172—provides that certain charitable trusts and corporations, which are treated as "private foundations" will lose their right to full deduction for charitable contributions, as well as their exemption from Federal income tax, unless their governing instruments—that is, corporate charter or trust indenture include by December 31, 1971, certain limitations on their activities. The governing instruments of trusts created and corporations organized after 1969 must contain the required provisions upon their creation or organization.

"Necessary governing provisions would, in effect, require the charitable trusts or corporations to distribute income for its tax-exempt purposes on a reasonably current basis, and to refrain from certain actions which the Congress has deemed inconsistent with tax-exempt status, namely, engaging in "self-dealing" transactions, retaining excess business holdings, making investments which jeopardize tax-exempt purposes, and expending funds for improper expenditures, lobbying, and other prescribed activities.

Following the enactment of the Tax Reform Act of 1969, the Internal Revenue Service published temporary regulation No. 13.8—35 Federal Regulation 7300, dated May 9, 1970—which recognizes as the equivalent of an actual amendment of a governing instrument of a charitable trust or corporation, the enactment of a statute which either treats the required provisions as being contained in the trust's or corporation's governing instruments, or specifically requires the trust or corporation to distribute its income and prohibits it from engaging in the prescribed actions described above.

The necessity of enabling legislation by Congress to cover charitable trusts and corporations is required by the Federal Tax Reform Act of 1969.

LEGISLATION TO COVER BEQUESTS TO SHRINER'S HOSPITALS FOR CRIPPLED CHILDREN

The original legislation (H.R. 9172) introduced and referred to our committee, to facilitate the amendment of governing instruments of certain charitable trusts and certain corporations in the District of Columbia, was subsequently amended by H.R. 10790 which included a provision which would enable all the beneficiaries of a split-interest trust, in concert with the trustees, to amend the trust instrument in order to conform it to the requirements of section 664 of the Internal Revenue Code. The purpose of the amendment in H.R. 10790, not contained in H.R. 9172, is to permit the trustee and all parties in interest to an unqualified trust to amend its instrument to contain all the rules and limitations of said section 664, without resort to judicial proceedings. This facilitates obtaining the charitable deduction for the grantor or testator, subject, of course, to the effective date rules of applicable Internal Revenue Code and Regulations. The amendment was motivated on behalf of Shriners Hospitals for Crippled Children, a large charitable organization operating 22 charitable hospitals throughout the United States, Canada and Mexico, entirely supported by charity of Shriners and their endowment funds.

Our committee was advised in testimony presented at the hearing on this proposed legislation, that approximately 100 wills per month are received in the various Shriner offices, which contain bequests and devises of property to them. Some of these testimentary dispositions include what are called charitable remainder trusts, with an income interest going to a relative of the decedent, and then remainder going to Shriners Hospitals.

The Subcommittee on Public Health, Welfare, Housing, and Youth Affairs considered both foregoing bills and approved the provisions of both, and H.R. 11489, as reported, represents the total package. In this connection, the enactment of the proposed amendments to D.C. Code, title 21–1801(d), in H.R. 11489 would avoid the litigation referred to because its authorizes the trustee and the beneficiaries to amend the testimentary trust without resort to court action, and thereby enables the trust to obtain the Federal charitable contribution deduction.

Unless the provisions included in this legislation were adopted, to permit the trustee and all interested beneficiaries among themselves to conform the trusts instruments to existing law, the trustees or executors of the estates in question would have to conform the testimentary disposition in the same manner but however through the necessity of filing actions in a court of law requiring judicial reformation of the testimentary disposition or will.

What the amendment proposed does is to assist public charities in general to facilitate the transition from an unqualified remainder trust to a qualified trust and obtain additional funds for public charity.

As an example, suppose a District of Columbia resident executed a will on June 14, 1971 and died July 4, 1971. In his will he created a charitable remainder trust which provides that all the income from his trust shall be paid to his wife until her death, and upon her death the corpus (i.e., remainder) is paid over to Shriners Hospitals. Because the testator failed to create a qualified trust described in section 664 of the Internal Revenue Code, he is not entitled to an estate tax deduction for the present value of the charitable remainder. To be eligible for a deduction under present Treasury Department regulations, the trustee, the decedent's wife, and Shriners Hospitals would have to obtain counsel who would file an action in D.C. Superior Court asking that the court amend the instrument to conform the testamentary trust to the requirements of section 664 of the Internal Revenue Code and applicable regulations.

Section 21–1801(d) is a new provision affecting District of Columbia charitable remainder trusts. Its purpose is to facilitate amendment of the governing instruments, without resort to judicial proceedings, to obtain Federal tax benefits not originally available to the donor when the trust was created. If a donor currently wishes to obtain a Federal income, estate or gift tax deduction upon the creation of a charitable remainder trust, with one or more private income beneficiaries and a remainder interest in a charitable organization, the trust instrument must conform to 26 United States Code section 664 and regulations thereunder, enacted as part of the Tax Reform Act of 1969, Public Law 81–172 (83 Stat. 487). If the trust instrument does not conform to these requirements, no Federal tax deduction is available and charities can lose, in effect, the amounts which must be paid to the Government in taxes. A long line of Federal court decisions—including the District of Columbia Circuit—have held that amendments to existing instruments, or judicial reformation of completed transactions, cannot alter the Federal tax implications of the matter in issue. *Emerson Institute* v. *United States*, 356 F. 2d 824 (1966). The Federal tax implications normally are based on the instrument as originally written during the tax years in issue and not on a subsequent reformation. Recognizing that the effective date provisions of 26 United States Code section 664 were partly retroactive, and recognizing further that these new provisions placed a premium on extremely sophisticated tax planning, and expert draftsmanship, the Treasury Department proposed regulations (35 Fed. Reg. 12467, August 5, 1970, and 36 Fed. Reg. 18667, September 18, 1971) which contained transitional rules permitting amendments to defective instruments thereby allowing donors—or their estates—to claim Federal tax deductions otherwise unavailable because the original instrument failed to conform to 26 United States Code section 664.

Proposed section 21–1801(d) of the bill permits District of Columbia trusts to be amended to conform to the requirements of 26 U.S.C., 664 and to obtain the Federal tax advantages allowed by the Treasury Department regulations, subject to any effective date provisions of an applicable Federal tax statute or regulation. At present, the committee is not aware of any District of Columbia judicial decision which deals with the problem of amendment, modification, or reformation of the governing instrument of a charitable remainder trust. Enactment of section 21–1801(d)

will do two things: First it will alleviate any uncertainty that all interested parties to a charitable remainder trust, acting together, are entitled to reform or modify the instrument for the above described purpose. Second, it will eliminate needless, time consuming and expensive litigation which would otherwise occur had these persons sought the same result through judicial reformation or modification of the governing instrument. If the trustee and all beneficiaries cannot agree among themselves, they cannot, of course, amend the instrument in the method permitted by this section. The fact that parties in interest to a charitable remainder trust are not required to seek judicial reformation does not mean they cannot do so should they desire judicial review or modification or, for example, construction of terms in the original instrument which affect substantive rights not directly connected to the requirements of 26 U.S.C., 664.

EFFECT OF LEGISLATION

H.R. 11489, if enacted, will allow hundreds of charitable organizations in the District of Columbia to comply with the provisions of the 1969 Tax Reform Act, without the expense and court congestion which would follow if the governing instrument of each such charity had to be presented before your committee at its hearings on this proposed legislation, the city banks estimated that approximately 400 separate actions (in trusts which they administer) would have to be prepared and filed before December 31, 1971, if this legislation is not enacted. No estimate was furnished this committee as to what trusts might be similarly affected which do not have banks as trutees. In any event, numerous law suits would burden the court dockets in the District of Columbia and delay trials of other more important civil and criminal matters.

In addition, the charities would be forced to incur legal fees and court costs which would reduce the amount of funds distributable for charitable purposes in the District of Columbia. In the case of relatively small charitable trusts, the legal fees for such litigations may well exhaust one year's income or more, which otherwise would be used for charitable purposes. The beneficiaries of many of the trusts involved are local institutions such as The Children's Hospital, the Red Cross, Georgetown University, George Washington University, American University, Howard University, Catholic University, and many other similar charitable and educational institutions, as well as religious organizations and affiliates in the District of Columbia.

The necessity of H.R. 11489 arises from the fact that it is not sufficient for a charitable corporation or trust to operate in compliance with the Federal Tax Reform Act of 1969. The tax exemption enjoyed by such corporations or trusts will be denied them unless their governing instruments specifically require such compliance. Most charitable corporations, and some trusts where the grantor is living and the instrument so permits, would be able to amend their by-laws, or governing instruments, to comply with the provisions of the Tax Reform Act. However, without H.R. 11489, the only recourse that would be open to the trustees of charitable trusts, where the grantors are deceased, and those charitable corporations whose governing instruments do not permit amendment, would be to seek equitable relief in the courts to permit the conforming amendments. All this would be obviated by the provisions of H.R. 11489.

HEARING

A full hearing was held on this proposed legislation by the Subcommittee on Public Health, Welfare, Housing and Youth Affairs, on October 6, 1971. At that time witnesses on behalf of the Bar Association of the District of Columbia, the D.C. Bankers Association, and the American Bar Association appeared in support of the legislation. No opposition was expressed to this legislation.

By letter the District government interposes no objection to enactment of the legislation.

The Treasury Department has given its advisory opinion that this legislation satisfies the requirements of section 508 (a) of the Internal Revenue Code of 1954 and the Tax Reform Act of 1969.

ARENT, FOX KINTNER, PLOTKIN & KAHN,
Washington, D.C., October 12, 1971.

Hon. W. S. STUCKEY,
Chairman, Subcomittee on Health, Welfare, Housing and Youth Affairs, Committee on the District of Columbia, U.S. House of Representatives, Washington, D.C.

DEAR MR. STUCKEY: There seemed to be a lack of clarity over what could be accomplished by enactment of proposed Title 21–1801(d) of H.R. 10790. Let me suggest this example: Suppose a District of Columbia resident executed a will on June 14, 1971 and died July 4, 1971. In his will he created a charitable remainder trust which provides that all the income from the trust shall be paid to his wife until her death, and upon her death the corpus (i.e., remainder) is paid over to Shriners Hospitals. Because the testator failed to create a qualified trust described in section 664 of the Internal Revenue Code, he is not entitled to an estate tax deduction for the present value of the charitable remainder. To be eligible for a deduction under present Treasury Department regulations, the trustee, the decedent's wife, and Shriners Hospitals would have to obtain counsel who would file an action in D.C. Superior Court asking that the court amend the instrument to conform the testamentary trust to the requirements of section 664 of the Internal Revenue Code and applicable regulations. Enactment of proposed Title 21–1801(d) of H.R. 10790 would avoid the litigation since it authorizes the trustee and the beneficiaries to amend the testamentary trust without resort to court action and thereby obtain the federal estate tax deduction (subject to the effective date rules).

The following background information may be helpful to put this example in context. For a number of different reasons, there are times when a charitable trust or corporation cannot carry out its purposes and, accordingly, must seek court assistance to formulate new or related purposes for the general benefit of the public. Like most jurisdictions, the District of Columbia courts apply the common law rules of the "cy pres" doctrine to assure that a charitable trust or corporation fulfills its general charitable purposes. In this connection, if charitable purposes would be frustrated or thwarted, the courts in the exercise of equity jurisdiction, may reform governing instruments of charitable trust for this purpose. Under the Tax Reform Act of 1969, the Congress altered the charitable deduction and exemption treatment of certain partially charitable trusts to require their governing instrument to contain particular limitations and mechanical rules for the pay-out of income to private beneficiaries and to assure preservation of corpus to public charities. Internal Revenue Code Sec. 664, creating the requirement of charitable remainder annuity trusts or charitable remainder unitrusts, was effective for inter vivos trusts created on or after August 1, 1969, and for testamentary trusts created on or after January 1, 1970.

Under ordinary circumstances, a charitable remainder trust which was improperly drafted after the effective date of section 664 would cost the donor a charitable deduction for his gift or bequest and, in the case of the testamentary dispositions, reduce the amount of funds eventually available to public charities, such as Shriners Hospitals for Crippled Children.

The Treasury Department recently promulgated regulations which, subject to certain effective date rules, permit unqualified charitable remainder trusts to be amended to conform their instruments to the Internal Revenue Code rules. The amendment to conform the charitable remainder trust to a qualified (and deductible) type of trust may be done without resort to judicial proceedings if the instrument permits it. If the instrument does not permit amendment or, in the case of trusts created under wills, the ordinary course to pursue would be to have the executors or trustees file court actions, with the consent of the beneficiaries and seek the necessary conforming amendment through court action.

In order to conserve the assets held in an unqualified charitable remainder trust, and foreclose any question on the legal rules which govern amendments to testamentary and other unamendable trust instruments, proposed D. C. Code Title 21–1801(d) of H.R. 10790 permits the trustee and all parties in interest to the unqualified trust to amend its instrument to contain all the rules and limitations of section 664 of the Internal Revenue Code without resort to judicial proceedings; this facilitates obtaining the charitable deduction for the grantor or testator, subject, of course, to the effective date rules of applicable Internal Revenue Code and regulations. By permitting all parties in interest to amend the instruments for this purpose, District of Columbia court dockets will be kept clear of amendatory litigation and the trusts (and the public charitable beneficiaries) will avoid costly legal fees which would have been incurred were a judicial proceeding required.

The Congress will accomplish the same purpose when enacting the foregoing provision as it will when it enacts the private foundation provisions set forth in H.R. 9172. In both instances, there is the elimination of the necessity of incurring substantial legal fees to conduct the court proceedings and the court dockets of the District of Columbia would not be burdened with this type of litigation.

As you can see by the enclosed letter for the Treasury Department, if our proposed Title 21–1801(d) were enacted, eliminating the necessity of a judicial proceeding to amend the partially charitable trust's instrument, an amendment agreed to by all parties in interest (e.g., trustee, income beneficiary and charitable remainderman) would entitle the donor or estate to a federal charitable contribution deduction.

I hope this letter clarifies the questions raised during the Subcommittee's October 6, hearing.

Very truly yours,

WILLIAM J. LEHRFELD.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., October 8, 1971.

DEAR MR. CURTIN: Thank you for your letter of October 7, 1971, with respect to the proposed regulations under section 664 of the Code.

This will confirm your understanding that the amendment contemplated by section 1.644–1(g)(3)(ii) of the proposed regulations is intended to include any method of amendment which is effective to amend an irrevocable trust under local law, whether accomplished by judicial proceedings, binding agreement, or otherwise.

Sincerely yours,

JOHN S. NOLAN,
Deputy Assistant Secretary.

Mr. SMITH of New York. Mr. Speaker, I rise in support of H.R. 11489, which I introduced, to facilitate the amendment of certain charitable and split-interest trusts in the District of Columbia, in order to conform to the requirements of the Internal Revenue Code and the Tax Reform Act of 1969.

This legislation was requested by the Bar Association of the District of Columbia, and the Bankers Association of the District of Columbia, and supported also by the American Bar Association.

My original bill (H.R. 9172) was amended by the committee, which I heartily support, to benefit trusts created for the benefit of Shriners Hospitals for Crippled Children, a large charitable organization operating 22 charitable hospitals throughout the United States, Canada, and Mexico, which are entirely supported by charity of the Shriners and their endowment funds. As so amended and reported, H.R. 11489 has the approval of the Treasury Department which has rendered an advisory opinion that this legislation satisfies the requirements of the Federal Tax Reform Act of 1969.

Legislation similar to this bill has been adopted by 35 other States.

The Tax Reform Act of 1969 (Public Law 91–172) made a number of changes with respect to the treatment for tax purposes of private foundations and other charitable corporations and trusts. Among those changes is a requirement that charitable trust and corporations include in their governing instruments certain provisions specified in the 1969 Act, including provisions that the trust or corporation will distribute its income for "exempt" purposes on a reasonably current basis and will refrain from certain actions such as engaging in "self-dealing" transactions, retaining excess business holdings, making investments which jeopardize exempt purposes, and expending funds for lobbying. The Tax Reform Act specifies that charitable trusts and corporations must alter their governing instruments in the prescribed manner by December 31, 1971, or lose their right to full deductions for charitable distributions or their exemption from the Federal income tax.

Subsequent to the enactment of the Tax Reform Act of 1969, the Internal Revenue Service published a Temporary Regulation declaring that the requirements for the governing instruments of charitable trusts and corporations could be met through the enactment of a statute which provides that such governing instruments are deemed to contain all of the provisions required by the Tax Reform Act of 1969. H.R. 11489 would make such a declaration with respect to trusts in the District of Columbia. Absent the enactment of the bill, many charitable trusts and corporations operating in the District would find it necessary to institute separate court proceedings to amend their individual governing instruments in conformity with the requirements of the 1969 Act. In addition to eliminating the need for numerous legal actions, enactment of H.R. 11489 would prevent any confusion with respect to legitimacy, from a tax standpoint, of the activities of charitable trusts and corporations operating in the District of Columbia.

The provisions of H.R. 11489 would apply to those trusts (a) created by will of a resident of the District and admitted to probate in the District; (b) created by a resident of the District and executed in the District; (c) of which the trustee or a co-trustee is a bank or trust company doing business in the District; (d) of which a majority of the trustees are resident in the District; (e) involving real property located in the District; or (f) the governing instrument of which provides that it is governed by the laws of the District of Columbia. The bill also applies to any corporation organized under the laws of the District of Columbia which is treated as a private foundation under the Internal Revenue Code.

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.

INTERSTATE COMPACT ON MENTAL HEALTH

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 10344) to authorize the District of Columbia to enter into the Interstate Compact on Mental Health, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 10344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interstate Compact on Mental Health Act".

SEC. 2. The Commissioner of the District of Columbia is hereby authorized to enter into and execute on behalf of the District of Columbia an agreement with any State or States legally joining therein in the form substantially as follows:

"THE INTERSTATE COMPACT ON MENTAL HEALTH

"ARTICLE I—PURPOSE AND FINDINGS

"The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

"ARTICLE II—DEFINITIONS

"As used in this compact:

"(a) 'Sending state' shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

"(b) 'Receiving state' shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

"(c) 'Institution' shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency, and shall include Saint Elizabeth's Hospital in the District of Columbia.

"(d) 'Patient' shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

"(e) 'After-care' shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

"(f) 'Mental illness' shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

"(g) 'Mental deficiency' shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

"(h) 'State' shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"ARTICLE III—ELIGIBILITY AND PLACEMENT OF PATIENTS

"(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

"(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

"(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its in-

tention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

"(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

"(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

"ARTICLE IV—AFTER-CARE OR SUPERVISION IN THE RECEIVING STATE

"(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

"(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

"(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

"ARTICLE V—ESCAPE OF DANGEROUS OR POTENTIALLY DANGEROUS PATIENTS

"Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

"ARTICLE VI—TRANSPORTING PATIENTS THROUGH PARTY STATES

"The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

"ARTICLE VII—PAYMENT OF COSTS

"(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

"(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

"(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

"(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

"(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

"ARTICLE VIII—GUARDIANS

"(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for which he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

"(b) The term 'guardian' as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

"ARTICLE IX—INAPPLICABILITY OF COMPACT TO PERSONS SUBJECT TO PENAL SENTENCE; POLICY AGAINST PLACEMENT OF PATIENTS IN PRISONS OR JAILS

"(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

"(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

"ARTICLE X—COMPACT ADMINISTRATORS

"(a) Each party state shall appoint a 'compact administrator' who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

"(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

"ARTICLE XI—SUPPLEMENTARY AGREEMENTS

"The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

"ARTICLE XII—EFFECTIVE DATE OF COMPACT

"This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

"ARTICLE XIII—WITHDRAWAL FROM COMPACT

"(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of this compact.

"(b) Withdrawal from any agreement permitted by Article XII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

"ARTICLE XIV—CONSTRUCTION AND SEVERABILITY

"This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state

party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

SEC. 3. Pursuant to this compact, the Commissioner of the District of Columbia is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of party States, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of the District of Columbia in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by the District thereunder.

SEC. 4. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of party States pursuant to articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of the District of Columbia or require or contemplate the provision of any service by the District of Columbia, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

SEC. 5. The compact administrator, subject to the approval of the Commissioner or his designated agent, may make or arrange for any payments necessary to discharge any financial obligations imposed upon the District of Columbia by the compact or by any supplementary agreement entered into thereunder.

SEC. 6. The compact administrator is hereby directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in the District of Columbia to an institution in a party State to take no final action without approval of the Superior Court of the District of Columbia.

SEC. 7. Duly authorized copies of this Act shall, upon its approval, be transmitted by the Commissioner or his designated agent to the Governor of each State, the Attorney General and the Administrator of General Services of the United States, and the Council of State Governments.

Mr. LINK. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 10344, a bill to permit the District of Columbia to join the Interstate Compact on Mental Health. This measure was introduced by the distinguished gentleman from Missouri (Mr. HUNGATE) and myself.

This act is straightforward and has four purposes. First, it guarantees that any person found to be mentally ill or mentally deficient within a member State will receive care and treatment in that State regardless of the patient's legal residence. Second, it permits the transfer of a mentally ill patient to an institution in another State when such a transfer is found to be in the best interests of the patient. Third, it provides for interstate cooperation with regard to aftercare, and supervision of patients on convalescent status or conditional release. Fourth, it permits the establishment of supplementary agreements between two or more party States for the furnishing of care and treatment of patients on a cooperative basis.

Mr. Speaker, one of my constituents, Mrs. R. W. Wheeler of Bismarck, N. Dak. has been instrumental in improving the treatment and care of the mentally ill. Mrs. Wheeler is a member of the board of directors of the National Association for Mental Health, immediate past president of the North Dakota Mental Health Association, chairman of the board of directors of the Mental Health and Retardation Center in Bismarck, N. Dak., and chairman of the Dakota Mental Health and Mental Retardation Foundation.

In her statement testifying in support of this legislation, she gave a concise explanation of the interstate compact. She noted that:

The Compact enables the transfer of patients between member states on the basis of their clinical needs, instead of their legal residence. It allows a patient to be transferred from his state of residence to another state if his case history, condition, and prognosis are such that care and treatment elsewhere would be more effective. Experience shows that the Compact does not create a problem of great movement of patients or an increase in requests for transfers. There has been no increased cost to any state as a result of their involvement in the Interstate Compact and no state has been overloaded with out-of-state patients.

Mrs. Wheeler goes on to note:

The Mental Health Compact is a cooperative state program that serves the best interest of the patients, their families, and the states themselves.

Since I introduced this legislation, Mr. Speaker, I have received several letters supporting H.R. 10344. The director of the North Dakota Division of Mental Health and Retardation, Dr. Hubert A. Carbone, wrote:

This is indeed a worthwhile cause. The Interstate Compact has proved a boon to many patients and their families.

Mr. Speaker, the compact permits a patient to be hospitalized close to his relatives and friends, who are concerned about him and who will visit him during his hospital stay. The compact, in short, recognizes the increased mobility of Americans, and makes it possible for mental health treatment that takes this mobility into consideration.

To date, Mr. Speaker, 42 States are members of this mental health compact.

I urge support of H.R. 10344.

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

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

Mr. HUNGATE. I appreciate the gentleman's yielding. I should like to join in the remarks of the gentleman from North Dakota, as I am a cosponsor of the measure, and I should like to express my support and also my thanks for his leadership in this important field.

Mr. STUCKEY. Mr. Speaker, the purpose of the bill, H.R. 10344, is to authorize the District of Columbia to enter into the Interstate Compact on Mental Health.

The functions of this compact are, first, to guarantee that any person found to be mentally ill or mentally deficient within a member State will receive care and treatment in that State regardless of the patient's legal residence.

Second, it permits the transfer of a mentally ill patient to an institution in another State when such a transfer is found to be in the best interests of the patient.

Third, it provides for interstate cooperation with regard to aftercare, and supervision of patients on convalescent status or conditional release.

Finally, it permits the establishment of supplementary agreements between two or more party States for the furnishing of care and treatment of patients on a cooperative basis. The compact does not apply to the criminally insane or to individuals subject to proceedings on criminal charges.

BACKGROUND

In 1955 the interstate compact developed out of a meeting of a group of psychiatrists, legislators, lawyers, and administrators from Connecticut, New Jersey, New York, and Pennsylvania who met to discuss the possibility of establishing reciprocal arrangements by which each State would agree to accept patients transferred from an institution in another State. Later that year the 10-State Northeast State Governments Conference on Mental Health created the Interstate Compact on Mental Health to facilitate interstate transfer of mentally ill or mentally retarded patients. The compact would make it possible to transfer patients between member States on the basis of their clinical needs instead of their legal residence.

Later that year Connecticut ratified the compact, and New York, Massachusetts, and New Jersey soon joined. Today 33 States are members of the Interstate Compact on Mental Health. The Council of State Governments, through its Interstate Clearing House on Mental Health, is continuing to stimulate interest in the compact and encourage its adoption. Its goal is to have every one of the 50 States participate.

The compact insures interstate cooperation to meet the welfare and clinical needs of mental patients. In contrast to the archaic practices that prevailed for many years in this country, the 33 compact States can provide hospital care, treatment, rehabilitation, and aftercare services to patients regardless of their place of residence or citizenship. Only a patient's medical and psychiatric needs determine where he will be hospitalized or where he will receive aftercare.

A major means of reducing hospital stay and increasing the number of patients returning to productive community life is to create for each patient a

total environment, both in the hospital and in the community. The compact permits a patient to be hospitalized close to the relatives and friends who are concerned about him and who will visit him during his hospital stay. The opportunity the patient has to visit the homes of nearby relatives and friends can also hasten his recovery.

STATE ENACTMENTS

The problem which this legislation is designed to remedy has been recognized throughout the United States. There are presently 42 States which are members of the interstate compact. The member States of this compact, have not found that membership in the compact creates problems in the way of any great increase in requests to transfer patients. Nor does membership increase the cost of treatment for any member State. Your committee finds that the provisions of the bill are reasonably comparable to legislation enacted in the States. The States which have joined the interstate compact as of October 1971 are as follows:

Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

HEARING

At a hearing before your Subcommittee on Public Health, Welfare, Housing, and Youth Affairs on November 3, 1971, testimony and statements were received from representatives of organizations whose members were interested in the legislation. There was no opposition to the bill expressed at the hearing.

The report of the Commissioners for the District of Columbia on H.R. 10344 was representated by representatives of the office of the Corporation Counsel and Department of Human Resources for the District of Columbia who indicated that the Commissioner had no objections to the legislation.

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.

GENERAL LEAVE

Mr. STUCKEY. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the District bills considered today.

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

There was no objection.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1971

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 626 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 626

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 626 provides an open rule with 2 hours of general debate for consideration of H.R. 10729, the Federal Environmental Pesticide Control Act of 1971.

H.R. 10729 amends the present law for the purpose of providing more comprehensive regulation and control over the manufacture, distribution and use of pesticides.

Basically, all pesticides would be classified into two groups—"General Use" and "Restricted Use"—and the pesticides must be registered. If a pesticide is registered for restricted use only there are recordkeeping requirements as to who buys it, and so forth, so that sales can be followed up.

There would be two groups of applicators—"Commercial" and "Private"—most of whom would be farmers—and they must be licensed.

Civil and criminal penalties are provided for violations.

The program would be administered by the Environmental Protection Administration and should give us much better control over and protection from pesticides than we have had heretofore.

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

Mr. GROSS. Will the gentleman yield to me?

Mr. SISK. I will be glad to yield to my good friend from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I wish to commend the gentleman and the Committee on Rules for bringing out one rule which is wide open, with no inhibitions and no prohibitions of any kind. I cannot remember when the Committee on Rules has passed out a rule as free of restrictions as this one, and I cannot pass the opportunity to commend the committee for just once giving the House a wide-open rule.

Mr. SISK. Let me say that I am most appreciative, and I know the committee is, of the gentleman's commendation, because I recognize from time to time we are criticized by him.

As the gentleman says, this is a completely wide-open rule waiving all points of order, and the House, I am sure, will work its will on this piece of legislation.

I now yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the purpose of Federal Environmental Pesticide Control Act of 1971 is to amend existing law—which is primarily a registration and labeling law—into a comprehensive regulatory statute for the control of both the manufacturing and use of pesticides under the recently created Environmental Protection Agency.

There are currently more than 60,000 products made from some 900 chemical compounds which are required to be registered under our present law. Over 1,000,000,000 pounds of registered pesticides were produced in the United States in 1970, and sales totaled some $870,000,000.

Products which are classified as pesticides and subject to registration under current law include all farm pesticides and herbicides, industrial products, sterilizing and disinfecting products, home cleaning products and lawn and garden insecticides and herbicides. All segments of the Nation use these products.

Current law—the Federal Insecticide, Rodenticide, and Fungicide Act—is a registration and labeling law. The proposed changes would redirect its thrust by providing for regulation through the Environmental Protection Agency of both the manufacture of pesticides and their use by individuals as well as commercial applicators. H.R. 10729 requires the registration of pesticide-producing firms. This registration will be in one of two categories, "general use" and "restricted use." A product registered in the general use category will be subject to labeling requirements, as now. All products or compounds in the restricted use category will have additional terms and conditions surrounding their use. Any application of such products must be certified by the Environmental Protection Agency. Such certification or licensing requires proof of knowledge in the application of dangerous chemical compounds.

All manufacturers of pesticides must accompany an application for registration of a particular compound with information concerning its effects on plants and animals, the production process and other pertinent information. Such information must be kept current and any adverse findings must be reported. To insure compliance the Environmental Protection Agency has authority to inspect the books and records which the act requires to be kept by all manufacturers.

The Environmental Protection Agency has wide powers. It may issue public warnings, seek court injunctions to stop

distribution and/or use, seize dangerous pesticides, impose civil penalties and bring criminal charges in appropriate cases.

The agency is also given authority, with respect to seizures of dangerous compounds, of indemnifying the owner for the value of the products seized.

Finally, judicial review of the agencies administrative decisions is provided. However, such review is limited in that only those "persons adversely affected" may complain. This would seemingly preclude persons not directly involved from seeking court action.

Criminal penalties are provided. A fine of $25,000 may be levied against any person other than private users of pesticides for failure to comply with the certification requirements or for the misuse of any pesticide. Private individuals may be fined up to $1,000 upon conviction. Civil penalties may be assessed by the Agency and range up to $5,000 per violation.

The committee report provides a cost estimate covering fiscal years 1973–1977 of $178,100,000.

The bill is supported by the administration as evidenced by a letter from the Environmental Protection Agency. An open rule, 2 hours of debate has been requested.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. Dow).

Mr. DOW. Mr. Speaker, I have no objection to the rule.

As a member of the committee, I am deeply concerned with this bill, because I think pesticides are a tremendous problem in this country. They are probably a blessing as well as a problem. The difficulty is to balance the two.

I took note of the remarks of the gentleman from Iowa that this rule permits wide open debate. I am taking full advantage of that. I am one member of the committee who has some disagreement with the bill as drawn. I will in general debate explain my position and the amendments to be offered.

I can generalize by saying that these amendments pretty much relate to my belief that the manufacturing industry is being favored in this bill and that the bill has been drawn to provide snares and pitfalls to bar the administrator of the Environmental Protection Agency from policing the bill in the manner in which it should be, considering the seriousness of the problem and the dangers that some pesticides present.

Therefore, I will have no objection to the rule whatsoever and look forward to the fact that we do have a wide open rule.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10729, with Mr. HUNGATE in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. POAGE) will be recognized for 1 hour, and the gentleman from California (Mr. TEAGUE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas.

Mr. POAGE. Mr. Chairman, we on the Agricultural Committee bring before the House today a bill of far-reaching importance, one affecting every citizen in the Nation.

It is entitled the "Federal Environmental Pesticide Control Act of 1971," and it entails a complete revision and updating of the Federal Insecticide, Fungicide, and Rodenticide Act of 1947, sometimes called FIFRA. In view of the amazing developments in this area since the end of World War II, the committee feels that this basic law needs a thorough overhauling.

Fundamentally, the legislation we have reported changes FIFRA from a labeling to a regulatory program. For the first time, the Government is given controls over the manufacture, distribution and use of pesticides. Heretofore, the act has largely been restricted to enforcement of regulations requiring that labels on pesticides set forth the ingredients and instructions as to use.

The bill we have approved is a compromise—compromise legislation which is the product of many months of study and thought by the committee. First, we had several weeks of public hearings during which any one and every one interested in the legislation was given an opportunity to testify. Then followed a period of weeks in which the committee hammered out the bill you have before you today. Before it reached this form it went through three separate committee print versions, each of which was circulated among all interested parties for their comment.

The witnesses who came before the committee included the very top authorities throughout the country in the fields of science, agriculture and conservation—the last group including ecologists and environmentalists. I might point out that among these recognized experts there often were sharp differences of opinion. We had some testify that pesticides had caused the loss of birds and fish in particular instances, but we had equally authoritative witnesses emphatically testify that there was no positive proof that pesticides had caused these deaths. We on the committee do not claim that we know.

Without in any way trying to minimize the seriousness of these cases, I might say that in practically all instances where there was found to be an association between the use of pesticides and discoveries of dead birds and fish, the trouble apparently stemmed from misuse or misapplication of the pesticides.

I want to emphasize that our committee is as interested as anyone in conservation of wildlife. Certainly farmers and ranchers, living closer to nature than the rest of our society, should be and are in the forefront of the battle for a better earth. We believe that in this pending bill the Environmental Protection Agency is given the authority, which it does not now have, to enforce regulations which should prevent a recurrence of these incidents where improper application of pesticides caused harm to the ecology.

Among our witnesses was EPA Administrator William D. Ruckelshaus, representing the public interests. The EPA will administer the new law. We had Agriculture Department officials, including scientists from the Agricultural Research Service who testified that a complete ban on pesticides would at least triple the cost of food and lower its quality. Your tomatoes and lettuce and other produce likely would be mottled, and when you bit into an apple you would almost certainly find a worm.

We had farm organization spokesmen testify as to the necessity for continued use of pesticides and fertilizers if they are to meet the requirements of an expanding population for food and fiber. Chemical company spokesmen told of their continuing research for new pesticides which will achieve the results which are wanted and which are less hazardous to the environment.

Incidentally, I would like to quote here from a statement made earlier this year by Dr. Norman Bourloug, the Nobel Prize winner who developed the Mexican wheat strain which has increased yields per acre and alleviated hunger in much of the world.

This Nobel Prize winner said:

Today everybody talks about the environment.

He briefly reviewed his own work in the field of ecology, then added:

I'm horrified by what I read and listen to on the radio and television about some of the theories of the purists—who are suddenly going to shut off the use of chemical products that we need to continue the improvement of our agricultural production, and I say it broadly—fertilizers and pesticides. Sometimes we have had accidents with pesticides, but think of the good they have done. Without them where would our agricultural production be today?

We need common sense mixed with these things. But common sense seems to, all too often, go out the window.

Those are the words of a scientist whose standing cannot be questioned.

At this point let me briefly outline the major provisions in this legislation:

First. It establishes a coordinated Federal-State administrative system to carry out the new program. The States are given prime responsibility for the certification and supervision of pesticide applicators. The Federal Government sets

the program standards the States must meet. The new legislation authories the Federal law to preempt State and local laws in regard to all labeling and packaging requirements. However, the States may completely ban the use within their boundaries of restricted pesticides if they want to take such action.

Second. Under this bill, the National Academy of Sciences can be called upon by the EPA to render opinions on relevant scientific issues that arise in the hearing process. The applicant for a license may request the opinion of the Academy.

Third. Pesticides will be grouped into two categories—those for "general use" and those for "restricted use." The latter can be applied only by or under the direct supervision of licensed pesticide applicators.

Fourth. There will be two types of pesticide applicators—commercial and private. The bulk of the private applicators are expected to be farmers. The commercial will include not only agricultural but industrial and commercial types such as termite exterminators working at residences within cities.

Fifth. The EPA administrator may issue experimental permits for the safe testing of new compounds. He is given powers to examine books and records, and take samples of pesticides in the possession of persons covered by the act. The EPA is given enforcement powers to, first, issue warnings, second, bring court injunctions, third, seize pesticides or devices, fourth, impose civil penalties, and, fifth, bring criminal charges when such action is warranted.

Sixth. Indemnities must be paid by the EPA when the use of a legally produced product is suddenly banned, and the holder of such product may at his option turn such condemned pesticides over to the EPA for disposition.

Seventh. Judicial review of administrative actions is guaranteed.

Eighth. The EPA is given authority to do expanded research and monitoring in order to find new and better methods and materials for controlling pests.

In submitting this bill, the committee is well aware of the fact that it does not entirely please everyone or anyone. There is no partisan division in the committee. Those in opposition base their stands on widely differing viewpoints. Some thought it was too restrictive and some thought it did not go far enough. We carefully weighed all the arguments. Amendments like those which may be offered here on the floor were considered by the committee and rejected.

In summary, may I reiterate that this bill is the product of long days and weeks of study. It represents the view of a majority of both parties on this committee. We feel it is a good bill and can be enacted into law. It will be a long advance in the regulation of toxic pesticides and at the same time should not hamstring the efforts of our producers to meet the needs of the people. It balances the good against the harm inherent in these aids to agriculture. I hope the measure will be approved as reported by the committee.

Mr. TEAGUE of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I too support this bill. I think it is a remarkably good piece of work in my opinion on the part of the Committee on Agriculture by coming up with a well balanced piece of proposed legislation.

The chemical companies are not entirely happy with it, and every farmer is not entirely happy with it, and some of the environmentalists are somewhat unhappy, but as a whole I believe we compromised the varying points of view in a very satisfactory way.

I would like to take this time to commend our committee staff, I think in this case principally Mr. Hyde Murray, for having put together such a very clear committee report. There is no purpose in my reading that report into the RECORD, but to those of you who are interested in more details I would suggest that you can get most of them in the first five or six pages of the committee report.

I did not know that I was going to be handling this bill today. The gentleman from Oklahoma, (Mr. BELCHER), had expected to, but unfortunately he is out of town at the moment. So I request that any Members who are present who have technical questions should direct them to the gentleman from Texas (Mr. POAGE), or to our expert on this side of the aisle, the gentleman from Iowa (Mr. KYL).

Mr. POAGE. Mr. Chairman, I yield 20 minutes to the gentleman from New York (Mr. Dow).

Mr. DOW. Mr. Chairman, this is a quotation from the Washington Post of October 26:

> A heavy concentration of the toxic pesticide dieldrin has been pinpointed by the Patuxent Wildlife Research Center as the probable cause of death of a bald eagle found last year along the Potomac River. . . .

In this day of profound concern for our environment, our anxiety over mercury in fish, DDT in our birds and our bodies and phosphates in our water, protection of the people from economic poisons is a grave problem.

In passing the bill H.R. 10729 today we have a solemn responsibility to deal properly with the use of pesticides, which are sometimes referred to as economic poisons.

The committee's bill and none of my amendments designate or touch on specific poisons. These are left unnamed. The bill is one setting forth the administrative and legal procedures by which Federal oversight is maintained over the sale and use of pesticides so that our people are protected.

Virtually all of my amendments seek to remove from the committee bill the bias that has been woven into it, a bias to favor manufacturers and dealers in pesticides. The bias is evidenced by a series of legal snares set in the bill to hamper, if not actually block, the Administrator of the Environmental Protection Agency as he goes about his task of registering, suspending and approving economic poisons for use as pesticides.

I feel that the bill, H.R. 10729, before us this afternoon is substantially weaker than the present law—the Federal Insecticide, Fungicide, and Rodenticide Act—commonly referred to as FIFRA: and must be amended in several key sections. To describe the problem in another way, the bill takes good aim, it does get the target into focus but, regrettably, it falls short of the mark.

The Dow substitute, so-called, strikes out language which was added in the committee and includes only two areas where I have changed the wording of the bill that came originally from the EPA. All of the amendments I have put in this package affect the administration of the bill and judicial requirements and interpretations. There is nothing in these limited amendments which relate to the user or would directly affect the farmer. The amendments are designed to:

First. Preserve to the States the authority to further restrict the use of general use pesticides. Several States have stricter laws which would be gutted.

Second. Continue the present application of law which allows individual States and persons adversely affected to challenge the Administrator's orders. The committee bill limits court challenges to manufacturers and bars individual States, organizations and others of the public who might be vitally concerned.

Third. Strike language permitting pesticide manufacturers application for registration, a section that is more restrictive than present law. My bill adds language requiring disclosure of data which tends to prove a substantial environmental effect or lack of effect. The committee bill omits this requirement and, consequently, requires the Administrator, believe it or not, to assume the burden of proof in any denial of a pesticide application.

Fourth. Preserve the essentiality doctrine used by the Administrator to review registration of pesticides. The policy properly considers the need for the pesticide in the Agency analysis.

Fifth. Strike the section requiring the Federal examiner hearing pesticide suspension cases to submit all relevant questions of scientific fact to a scientific committee. The provision bottles up questions, delays procedure, and excludes the public. It was not in the original administration bill, H.R. 4152.

I want to state, as clearly as I can, that I am not interested in altering the committee language to change use on the farm or to change in any ways the committee procedures creating the machinery for pesticide applicators. I share the committee's concern for the farmer and I am not in the least interested in shutting off the use of chemical products which are needed for agricultural production.

My difficulties with the bill are with the administrative sections, the changes in procedure, and the changes in judicial review. I am joined in this view by a solid phalanx of national organizations which have gone to great lengths to advocate amendment at the points I have described.

These organizations are: Environmental Action, Friends of the Earth, Izaak Walton League, National Audubon Society, National Wildlife Federation,

Sierra Club, Sport Fishing Institute, Wilderness Society, Wildlife Management Institute, and International Association of Game, Fish and Conservation Commissioners.

I believe that the real question here is whether the changes in H.R. 10729 create a reasonable and effective law. With my limited amendments the bill should be supported.

The EPA supported and fought for most of the amendments I have incorporated in the Dow substitute.

I do want to commend the chairman on his very fair method of operating in the committee. All of us know of the several divergent forces at work when the bill was being written. The report, 92-511, acknowledges this on page 4 when it states:

> This bill is in part a result of the growing awareness of possible undesirable effects of pesticides and a realization of the necessity of considering these disadvantages along with the beneficial effects realized through protection of public health and enhancement of agricultural productivity.

The manufacturers have effectively carried the day on the bill as it is written.

To begin with, the data which is to be submitted in support of registration under the committee bill is subject to control by the applicant himself. He has the power to decide what parts of that data should be unavailable to the Administrator, when that official considers any other application for registration, and to the public. This language is seriously limiting on the Administrator and has been generally referred to as the featherbedding section. It has the effect of making a pesticide registration the equivalent of a patent. It can be argued also that it places the EPA in a restraint of trade action in conjunction with the manufacturer and in violation of the Freedom of Information Act outside the bounds of patent production.

The authority withheld from the States to further restrict the use of general use pesticides is another section in the bill which benefits pesticide manufacturers rather than the States, users, or consumers. Reading from the committee report on page 16 says in explaining this section of State authority that:

> The Committee also intends for the Federal law to preempt the States from restricting or licensing any "general use" pesticide.

I feel that this is a critical section of the bill to amend. Not only would the bill gut State laws such as we have in New York, or those which I understand obtain in other States as, for example, Michigan, Wisconsin, and Massachusetts, but the bill fails to recognize the importance of differing local conditions such as soil, climate, crops, and pest populations.

The narrowing of judicial review discriminates against States and other persons who seek to challenge the Administrator's orders. The original bill proposed by the Administration, H.R. 4152, used the classic words "any person adversely affected" when it designated those parties who would have standing to obtain review of the Administrator's order. In the committee these words were changed to "following a public hearing, any party at interest." I have stricken the new language and reverted back to the original wording. The change in the wording by the committee bill is clearly an attempt to narrow the scope of review to manufacturers applying for registration and to preclude the intervention of outside parties and even the individual States who have every reason to establish that they are adversely affected.

Arguments have been offered which would lead the layman to believe that the "any party at interest" language is not as narrow as it seems. The reason is based on the general concept of the public interest; I cannot accept this interpretation. Clearly, the precedents on the distinction between these phrases is clear. Standing would be granted to any person adversely affected if the burden could be carried to prove the adverse effect, *Environmental Defense Fund* v. *Hardin*, 428 F. 2d 1093. There are no precedents to give flexibility to the term "any party at interest." Litigation has already dealt directly with the interpretation. The intent of the committee is clear, to narrow the field of those who can challenge the manufacturer, particularly when it is noted that the words are further limited to action after a public hearing which may be sought by the applicant only.

Another section which favors the manufacturer is the change from present EPA doctrine which uses "essentiality" as a criteria when the registration of a pesticide is considered by the Agency. The present policy prescribes that when reregistration is required for persistent pesticides, argument must be included to show the need for the chemical's use. This policy is valid and it should not be eliminated if the EPA is to be charged with providing some balance in this area. The policy incorporates the caution that scientific documentation is needed in reviewing the uses of a specific group of chemicals. I can only read these words found in the committee bill to say that caution is unwarranted and that persistent pesticides do not merit special consideration with regard to use. My amendment would strike the "lack of essentiality" language from the bill. What shall EPA do when a suspect poison is offered to perform the same job as a less harmful one already serving the purpose? Shall the EPA play dead and ignore the essentiality?

Proceeding to still another issue, the section on scientific review is a compromise of the original requirements in FIFRA. It provides for the National Academy of Sciences to set up a scientific committee to rule on all relevant questions of scientific fact. This procedure was not in the recent new administration bill since the Administrator had the view that he more properly should be charged with the responsibility for the public hearing.

I have eliminated the section of scientific review to strengthen the hand of the Administrator. Neither the National Academy of Sciences or the Administrator sought this section. I feel that the public hearing should be conducted by the Administrator.

The hearing language in the committee bill requires that all relevant questions of scientific fact be referred to the scientific committee. This in effect subverts the public hearing process and further weakens the public's ability to participate by referring questions away from the hearing examiner. The examiner is nowhere barred from seeking scientific advice whenever it is needed.

I turn now to a very important section of the committee bill which I believe is a significant change from present law. In order to qualify a pesticide for registration it requires only a statement of—

First, the name and address;

Second, the name of the pesticide;

Third, a complete copy of the labeling, statement of all claims, directions for use;

Fourth, if requested—and I emphasize—a full description of tests;

Fifth, the complete formula; and

Sixth, a request that the pesticide be classified for general or restricted use. This procedure fails to sustain the burden of proof which should rest fully on the applicant to prove that the pesticide will perform without substantial adverse effect on the environment.

The consequent placement of this responsibility on the Administrator under section 3(c)(5), the approval mechanism on page 19 of the bill, gives the EPA the burden of finding that the product sought to be registered is environmentally unsound. The shoe should be on the other foot. The responsibility for the protection of our environment is as much a burden of the manufacturer as it is a function of the EPA.

Until proper requirements are spelled out in the registration process the burden will not rest on both parties as it must when such a critical factor as our environmental health is at stake.

It should be required in this section that all data which tends to prove a substantial adverse effect on the environment or a lack of any such effect should be submitted by the applicant. The onus should rest on the manufacturer, not be shifted to the Administrator. Because there is no requirement that such data be submitted by the manufacturer at the time of registration, I feel that the section is very weak and that the burden has indeed been shifted.

Here I am only seeking to do for pesticide applicants what is already required under food and drug legislation. Under Title 21 of the U.S. Code, Sec. 355(6), new drug applicants must file "full reports of investigations which has been made to show whether or not such drug is safe for use and whether such drug is effective in use." In the same title, sec. 346(d), petitions filed by the applicant seeking a tolerance for pesticides or requesting an exemption must include full reports of investigations on the safety and on the results of tests on the residues. I feel that a similar requirement for pesticide applicants is axiomatic.

There is every reason to require the full disclosure of data on the proposed pesticide at the time of registration in order to give the Administrator of the EPA complete information on which to base his decisions.

The Dow substitute is only aimed at those critical provisions I feel must be altered if the bill is to have the requisite teeth to be an improvement over present law instead of a retreat. United States production of pesticides and related products last year was 1,034 million pounds. Sales in that year were 881 million pounds, valued at $870 million. This is a tremendous production and demonstrates the very great need for full power to regulate and to disclose information. Pesticide use is on a slight decline, partly because of the generally increased knowledge of some of the effects which usage has on humans, on crops and on the environment. It is reported that about half of U.S. pesticide production was insecticides, among them chlorinated hydrocarbons like DDT, dieldrin, Mirex, organophosphates, carbamates, botanicals, and inorganics like lead arsenate.

The trend is toward using less persistent but more toxic pesticide according to the Environmental Quality Second Annual Report, August 1971. These changes require strong legislation designed to require the fullest participation of the manufacturers in the registration process and the public in the area of public hearings and judicial review. I believe my amendments recognize the basic failings of the bill and provide the House with an opportunity to pass a bill containing stronger language which would be a substantial improvement over FIFRA, and to perform a critical service for our Nation.

Mr. Chairman, I yield back the balance of my time.

Mr. POAGE Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, in this brief period I would like to give some background of this legislation so that it might appear in the RECORD today. Before I do so, I want to absolutely and totally deny that this committee or the individual speaking, or the Chairman of the committee or anybody else exhibited any bias favoring the manufacturer of chemicals in the consideration of this language. I do not know how this committee or any committee could have operated more openly, more fairly, more considerately than they did on this piece of legislation.

This is what the committee has tried to do Mr. Chairman, we do not bring this legislation here permitting some regulated use of pesticides because we hate worms. We bring it to you because we like the people of the United States like to eat apples without worms. They want good products and they want them at a price they can pay. We recognized when we started to write this legislation that all chemicals involved some danger, and that there are relatively safe ways of using those chemicals. This is, after all, a matter of science. We tend to forget that ecological and environmental matters are matters of science. Science does not seek to compromise. What we seek to do in this bill is to provide legal language for our statutes which will permit science to find the truth insofar as the environment is concerned and so far as the health of our people is concerned.

The Chairman mentioned that this bill is in the way of a compromise. I would rather not use the word "compromise" because of the kind of misinterpretations that might be placed on it. The gentleman from New York perhaps suggested one of those connotations. This is a bill which seeks not compromise, but which seeks to give science the time and the tools to seek the truth and the time for us to seek some alternatives to present controls of insect population. This is a balanced thing. It is not a compromise. For example, in one of the matters mentioned by the gentleman from New York we have to give this consideration. It costs $12 to $14 million to perfect, synthesize and test any single pesticide product on the market.

If we make it impossible or totally inadvisable in an economic sense for any manufacturer to do the research which is necessary to find the alternatives, then we have killed the goose that lays the golden egg.

So when we try to preserve a climate in which these manufacturers, who have done most of the research and almost all the research in the past, can operate, we are not operating for the benefit of the manufacturers, but for the benefit of citizens all over this world who stand to profit by the new discoveries and new tests which these manufacturers come forward with in the future.

It is essential that we do try to find some language which will permit the use of chemicals until we find alternate chemicals.

I am indebted to the National Geographic Society for this statement of fact, and it is a very significant statement. That organization says that one-third of all the products being grown or those which have been harvested all over the world are today destroyed by insects of various kinds. That is one-third of all the production and the storage of that which is produced, which is destroyed by insects.

The Department of Agriculture did some figuring for us. They estimate if we did not use herbicides—and this is the other side of this operation—to maintain current agricultural production, farmers would have to expand an additional $209 million to produce the same as we are producing. They would have an added cost of $4.64 per acre treated.

We would have to have 20 million more man-hours to produce the same crops we are producing in the United States and we would have to bring new land into production.

Here is where we get the environmental elements into conflict. Those of us who lived through the Dust Bowl days, when we put into production land which never should have been put into production, know it was one of the really serious environmental factors of all our national life, and if we had to put all this additional land into production to get the same kind of production we get today, we would have an environmental loss.

We go one step further with this consideration. If we did not use these chemicals—the fungicides, the herbicides, the pesticides—then the cost to the consumer overall would go up dramatically.

So when we say that, as we were not considering the benefit of the manufacturers in seeking new products for control here, so we are not considering the benefit of the farm only when we talk about pesticides and herbicides, but we are also talking about the benefit to the consumers who will be ultimately paying for that which is produced.

I feel these amendments which have been offered by the gentleman from New York are either a case of misconstruing the committee bill or oversimplifying it, and certainly I say again I do not want the implication to stand to any degree that this committee or any Member thereof attempted to produce a bill which was in favor of the chemical manufacturers and to some degree detrimental to the people of the United States otherwise.

Mr. Chairman, here are some basic background facts. About 900,000 species of insects have been classified. The insect population at any given time is probably a billion billion. They have been here for probably 370 million years—100 million years before the earliest mammals. Because insects have jointed, articulated limbs, they are classified technically in the phylum Arthropoda and thus are related to crustaceans—crabs and lobsters—to centipedes and millipedes. Insects have an external skeleton—a body divided into head, thorax, and abdomen—and normally have six legs.

Of interest here is the insect's acute sense of smell. It has been proved that the male silkworm moth can detect the female's sex attractant at 6.8 miles.

About one-tenth of 1 percent of all insect species are considered harmful to man. Man and insect compete for food. The desert locust, in a very brief period, will accumulate about a million individuals in a medium-size swarm. Since this insect consumes its own weight of vegetation daily, a medium swarm consumes 3,000 tons of food a day. The largest swarm recorded was an 1899 Red Sea invasion. It covered an area of 2,000 square miles and the insects weighed 450,000 tons. Lest you think this is an exaggeration, 1,300 tons of locust eggs were collected, weighed and destroyed on the island of Cyprus. In one summer in Ethiopia, 107,000 tons of cereal crops were consumed by locusts.

INSECT CONTROL

Diversionary tactics have been utilized by primitive and modern civilizations, such tactics including erecting of screens, digging fire trenches, and the use of noise, as well as flooding and baiting. Some civilizations eat the locusts. Locusts are consumed whole, or as flour. Insects can increase rapidly. The Japanese beetle does not cause much harm in its native habitat. A few of the insects came to the United States in 1917 accidentally. The next year it had spread to 3 square miles. The following year 6 square miles, and the following 48 square miles. By that time it was too widespread to be controlled. They became so widespread that use of poisons is impossible. Biologi-

cal controls were attempted. Every known natural competitor was imported. However, the Japanese beetle thrives in the United States and its enemies do not.

We have produced insect-resistant crops with some notable success as well as some frustrating failures.

Simple sanitation and the cleaning up of rubbish is an aid to control. Some physical means of control have been developed—again with some success. The yellow "buglites" are an example. More sophisticated means involve use of ultraviolet lights.

One of the most widely heralded controls is sterilization by gamma rays, particularly on the screw-worm and, to a lesser degree, with pink boll-worms. This process has been greatly oversimplified. Dr. Morton Grosser reports the staggering logistics of irradiation:

In California, twin-engined planes cover 125,000 acres of the San Joaquin Valley eight times a month from April to November; in the Southwest program, 150 million male screwworm flies must be raised, sterilized, and released every week.

Chemicals offer the most common control, with insecticides divided most commonly into stomach poisons and contact poisons.

You are familiar wtih the old paris green—arsenic trioxide and copper acetate—and also arsenious oxide, calcium arsenate, lead arsenate, sodium arsenate, and fluorine compound. Contact insecticides are of several varieties:

First. Natural organics such as nicotine, pyrethrum and rotenone.

Second. Inorganics—such as sulfur and lime.

Third. Oils—like kerosene.

Fourth. Fumigants—very dangerous chemical insecticides—which are usually more toxic to man than to insects.

Dichloropropane and dichloropropene—soil fumigants.

Hydrogen cyanide, methyl bromide, naphthalene, and paradichlorobenzene—the latter two, types of "mothballs."

Fifth. Repellents—such as creosote.

Sixth. And the one we are most concerned with in this bill—synthetic organic insecticides, with an output of $750 million a year.

Organo phosphates; for example: malathion, parathion, demeton, tetraethyl, pyrophosphate, diazinon, dichlorvos, ronnel, and dicapthon.

Hydrochlorinated carbons; examples: benzene hexachloride, lindane, aldrin, chlordane, dieldrin, endrin, heptachlor, toxaphene.

About 350 million pounds of pesticides are sold annually in the United States. Production in agriculture reportedly increased by 25 percent because of their use and, of course, in some cases complete crop losses are prevented.

Sex attractants are getting serious study, with limited success to date. The newest technique getting significant research is hormonal control. Because this application is fascinating, I quote from the report by Dr. Grosser as follows:

In 1920 the Polish biologist, Stefan Kopec, decided to investigate insect metamorphosis. In one experiment he tied a thin cord tightly around the middle of a Porthetria caterpillar. The caterpillar continued to function, but while its head section molted and pupated normally, its hind end remained an unaltered caterpillar. Kopec reasoned that the ligature had prevented the transmission of something from the front end of the caterpillar to the rear, thus blocking normal development. In a series of microsurgical experiments during which he excised and later reimplanted the caterpillar's minute brain, Kopec proved that his hypothesis was correct. He identified the blocked substance as a brain-controlled hormone, a substance secreted by the ductless glands in the anterior part of the catepillar and transmitted through the bloodstream to control the functioning of cells distributed throughout the animal.

Following Kopec's work, Soichi Fukuda, a Japanese biologist, discovered a second hormone, also secreted in the caterpillar's anterior end. Fukuda found that if this hormone was absent the larvae neither molted nor pupated. He named it ecdysone or molting-hormone, after the Greek ekdysis: an escape.

What proved to be the last member of an interacting trio of hormones was detected by V. B. Wigglesworth, a distinguished physiologist working at Cambridge University. The third hormone was present during all immature larval stages, but absent when the insect pupated and metamorphosed into an adult. Wigglesworth traced the hormone to the corpora allata, two tiny glands located near the insect's brain; it was named the juvenile hormone. . . .

Once the natural substance had been analyzed, laboratories began to try developing synthetic hormones. The first stages of this work have shown exceptional promise. The substance must be developed for each insect. The process has the obvious advantage of great specificity. I believe scientists are well agreed that it will take some time to achieve a full-scale commercial application of these apparently nontoxic hormonal insect controls. (The word hormone has its root in a Greek word, meaning to stir up or set in motion. A hormone is a specific organic product of living cells that, transported by body fluids, produces a specific effect on the activity of cells remote from its point of origin, exerting a stimulatory or excitatory effect on a cellular activity.

Mr. Chairman, I include with my remarks here an excerpt from the Evening Star, Wednesday, November 3, 1971:

FLAWED PESTICIDE BILL

SIR, It has been my observation that The Star does not "go off the deep end" very often. But, in my opinion, that's where you went in your editorial "Flawed Pesticide Bill."

The bill reported by the House Agriculture Committee with solid bipartisan support and the endorsement of the administration is a strong and effective bill.

Certainly the administrator of the Environmental Protection Agency would not have written us that "I believe that all will agree that the sweeping and highly desirable new authorities of the bill will permit a great advance in our efforts to protect health and the environment" if the bill showed "only a token concern for environmental protection" as your editorial suggested.

This bill was developed after extensive public hearings and very thorough committee consideration. During this entire process the views of the environmental community were solicited, heard, debated and in many instances adopted. In several of the points you raised these views were not embraced for what the committee felt were good reasons.

While the limits of time and space do not permit as thorough a rebuttal of the views you have reflected as will be the case during the debate in the House of Representatives, I would like to make it clear that our bill does give states the authority to regulate more strictly (or for that matter to prohibit outright) any "restricted use" (more dangerous) pesticide.

The bill also leaves unchanged any "burden of proof" that chemical companies must meet to satisfy EPA that a new pesticide is both safe and useful.

The committee has recommended limited indemnification for the loss sustained by owners of pesticides registered by the government as being proper and then later banned by the government as being a hazard. We think common justice calls for reimbursement to those persons, such as housewives, farmers and small businesses as well as manufacturers, who acquired or produced these materials in good faith.

In regard to the availability of information, this provision was drafted with the explicit intention of preventing the original research of one company from being pirated by another company. Without such safeguard a company would be reluctant to invest hundreds of thousands or millions of dollars in research to find new and better pesticides, only to have this costly data made available to a competitive company.

Also, the committee bill clearly recognizes the need for an expanded effort to find alternative methods of control. It provides the authority to move as rapidly as possible to an integrated system of biological, cultural, genetic and improved chemical controls.

In summary, H.R. 10729 is not a "farmer's bill." It is not a "manufacturer's bill." Neither is it an "environmentalist's bill." It is rather a mixture of each, a composite of all, and the manifestation of a sincere effort by the Committee on Agriculture to meet the need for reasoned progress in this important area of public concern.

W. R. POAGE,
Chairman, House Committee on Agriculture.

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

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

Mr. DOW. Mr. Chairman, in the gentleman's presentation, it seemed to me, he suggested either one of two alternatives, either an extensive use of pesticides or the absence of pesticides. I should like to make it clear to the gentleman that in the amendments I offer, there is no thought that pestcides should be abolished, and I think to pose this as a completely black-and-white situation is possibly misleading.

I am very much in favor of the use of pesticides. The one theme of the amendments I will offer will be to oversee the use of pesticides in a manner that will not be in favor of any group but will be prompt, effective, and in the interest of the farmer and producers as well as the consuming public.

Mr. KYL. Mr. Chairman, if the gentleman had been listening carefully, he would have heard me say that we recognized in the beginning that all chemicals involve some danger, that there are relatively safe ways of using them, and what the committee had to do was to find some means of permitting science to function, while at the same time trying to develop the alternative controls.

Mr. TEAGUE of California. Mr. Chairman, I yield myself such time as I may consume.

Briefly, Mr. Chairman, I am indebted to the gentleman from Iowa (Mr. KYL) and I am sure the gentleman from Texas

(Mr. POAGE) and other members of the committee also are, for pointing out that this is truly a balanced bill. It is not weighted in any way in favor of the manufacturing chemical companies.

I am one of the ranking members of the committee, and I honestly do not recall ever even being contacted by a chemical company. I do not know how any committee could possibly have worked more fairly and impartially in producing the results we did.

Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. POAGE. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 10729

Be it enacted by the Senate and House of Representatvies of the United States of America in Congress assembled, That this Act may be cited as the "Federal Environmental Pesticide Control Act of 1971".

Mr. POAGE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. BOGGS) having assumed the chair, Mr. HUNGATE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes, had come to no resolution thereon.

EVENTUAL CLEANUP OF THE POTOMAC RIVER

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

Mr. GUDE. Mr. Speaker, officials representing Maryland, Virginia, and the District of Columbia have finally agreed upon an interim treatment program for the Blue Plains facility and on the temporary closing of the Georgetown Gap.

This is a significant step forward to the eventual cleanup of the Potomac, and the parties to this agreement are to be congratulated for their diligence in pursuing this matter through the long, arduous, and often frustrating period of negotiation.

The chairman of the State Water Control Board in Virginia, Mr. Norman Cole, was particularly instrumental in bringing about this accord. Mr. Cole possesses an acute technical knowledge and understanding of the water pollution problem, and combines this with energetic leadership that makes his efforts politically effective.

The new environmental chief in the District of Columbia also deserves our commendation for the active and innovative role he has played since he took over his current position. Mr. Alexander is an able and personable man, with solid experience, who has earned the respect of all who have dealt with him.

The important first step has been taken. It will be an expensive undertaking much of which will be borne by residents of my district. I think the realization has now been firmly established, however, that this is a cost which must be borne.

The interim agreement is hopefully an indication that regional cooperation and planning can now be successfully undertaken in the Washington metropolitan area. We must do more of it, however, not only in the water and sewage area, but also in the area of solid waste management.

When men of good will and good intentions determine that a certain goal will serve the public interest parochial political concerns can be set aside to attain it. I look forward to the day when this will no longer be an occasion of special note in the District of Columbia area.

TRIBUTE TO MRS. LUCRETIA GRADY

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

Mr. MILLER of California. Mr. Speaker, recently, Mayor Joseph Alioto of San Francisco, paid tribute to Mrs. Lucretia Grady as a "first-class San Franciscan" and presented her with his Award of Merit in the form of a gold charm bracelet in recognition for her many years of faithful and devoted service to the city and the people of California.

Lucretia Grady is a lovable, irrepressible person, who will always bring happiness wherever she goes, and as a native-born son of San Francisco, I naturally have a great affection for that city, and am happy to call Mrs. Grady my friend.

The award ceremony was attended by many outstanding citizens of San Francisco and the Consuls of Iran, India, and Greece, where Mrs. Grady's late husband, Henry F. Grady, served as American Ambassador, after having rendered great service to his native State. Mrs. Grady served as Democratic National Committeewoman from California and seconded the nomination of Franklin Delano Roosevelt at the 1932 convention in Chicago.

As part of my remarks, I am including excerpts from news stories of Mrs. Grady's award, which appeared in the San Francisco Examiner and San Francisco Chronicle:

[From the San Francisco Examiner, Aug. 21, 1971]

MRS. LUCRETIA GRADY

Earlier in the day, the Mayor presented his Award of Merit—in the form of an 18 karat gold charm bracelet to Lucretia (Mrs. Henry) Grady for being "a first-class San Franciscan." For many years, the petite, snappy and apparently ageless Lucretia has been a Frontliner in the fields of civic betterment, politics, music and art. Her late husband served as U.S. Ambassador to Greece, India and Iran and it was Lucretia who seconded the nomination of Franklin Roosevelt at the 1936 Democratic convention.

Many of her friends were at the City Hall ceremony, including Mrs. Walter Haas, Mrs. Nion Tucker, Supervisors Mailliard, Tamaras and Boas, the George Killions, Mrs. Julia Porter, William Malone, Supreme Court Justice and Mrs. Stanley Mosk, the Vernon Kaufmans, Postmaster Lim P. Lee and the Consuls of Iran, India and Greece.

[From the San Francisco Chronicle, Aug. 20, 1971]

THE CITY HONORS MRS. GRADY

Mayor Joseph L. Alioto presented an award of merit yesterday to Lucretia Grady in recognition of her contribution to San Francisco through many volunteer activities in the fields of music, civic betterment and politics.

The presentation was made to Mrs. Grady in the mayor's office before an audience of about 40 dignitaries, including the counsuls general of Greece, India and Iran—countries where her late husband, Henry F. Grady, served as American ambassador.

An actress in her youth, Mrs. Grady became involved with politics and served as Democratic National Committeewoman for California. In the 1932 convention in Chicago, she seconded the nomination of Franklin Delano Roosevelt.

HIGHWAY CONSTRUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BOW) is recognized for 60 minutes.

Mr. BOW. Mr. Speaker, our colleague, the gentleman from Kentucky (Mr. NATCHER) has been subjected to a great deal of unwarranted criticism and abuse because of his efforts to carry out the will of the Congress with regard to future highway construction in the District of Columbia, the construction of the Metro system, and the Three Sisters Bridge.

Mr. NATCHER deserves commendation rather than criticism, for he has made many efforts to resolve the difficulties so that we could continue, as the Congress has mandated, with a balanced program of subway, highway, and bridge construction in the District.

I consider it highly unfortunate that a majority in the U.S. Court of Appeals recently negated all the progress that has been made by Mr. NATCHER, Secretary Volpe, and the District goverment, in a decision that establishes an entirely new set of administrative hurdles to be overcome before any construction may proceed. I wish to include at this point in my remarks an excellent editorial summation of the situation from the Washington Evening Star, followed by the distinguished and learned dissenting opinion to which the editorial refers, the dissent of Circuit Judge George E. MacKinnon.

The Star editorial follows:

"THE ONLY HOPE"

Judge George E. MacKinnon's newly filed dissent in the U.S. Court of Appeals to the Bazelon-Fahy ruling—which last month tossed a host of arbitrary new legal impediments in the path of the District's Three Sisters Bridge project—was well worth the wait. It is no wonder, furthermore, that the dissent was delayed.

The asserted purpose of the majority ruling was to set forth certain administrative conditions which Transportation Secretary Volpe must meet to support his approval of the bridge project before its construction may resume.

As concocted by Judges Bazelon and Fahy, however, those conditions ranged so far and so deeply into political as well as legal issues that the mere act of physical compliance

poses staggering problems. And the far more important thrust of Judge MacKinnon's blistering dissent is to question whether in fact Volpe's replies—no matter how responsive—would ever persuade the majority that the bridge specifically ordered by Congress could proceed.

Thus, in dissecting findings with which he disagrees, MacKinnon accuses his colleagues—and Bazelon in particular—of "gross distortions," and "straining at gnats" to "invent new requirements," of a "partial and slanted view of the facts," of an "overly technical, legalistic and impractical interpretation" of the law, of electing to disbelieve Volpe's testimony "for no more substantial reason than their own innate suspicion."

Confronted with that record, MacKinnon doubts "that a more extensive administrative record would cause them to believe him (Volpe) in the future." The dissent concludes: "A court that has gone to the great extremes that this court has . . . can always find reasons satisfactory to it for avoiding practically any subjective decision required with respect to the bridge. It may well be that the only hope to carry out the expressed will of Congress lies with the Supreme Court."

That is a harsh indictment, but one with which, in this instance, we fully agree.

Since the Bazelon-Fahy edict came down October 12, Volpe and District officials have been flopping around like fish in a bucket, while the bridge, not to mention the District's subway funds, remains in limbo. The question of an appeal to the Supreme Court, reportedly under study, should be resolved immediately, in the direction suggested by MacKinnon.

The following is Judge MacKinnon's dissent:

MacKinnon, *Circuit Judge,* concurring in part and dissenting in part: From time immemorial the public interest has suffered from various types of bottlenecks which injure the public in many ways. This case arises out of governmental efforts which seek to improve the highway transportation facilities of the Washington Metropolitan area by removing a number of highway bottlenecks. One of these is the traffic bottleneck in the vicinity of, and across the river from, Georgetown in Northwest Washington. There the increasing congestion on parkland highways, an antiquated street system and historic road patterns which are additionally confined within the adverse topographical features of the beginnings of the Potomac Gorge, combine with the necessity of bridging the Potomac River to cause great inconvenience to those attempting to enter or leave the District of Columbia by means of the existing streets and highways. The result is great inconvenience to thousands of highway users entering and leaving the capital and a substantial lengthening of many workers' day.

The governmental authorities responsible for dealing with this situation concluded that it is necessary to erect the Three Sisters Bridge across the Potomac River as one essential part of the overall highway improvement program proposed for the entire metropolitan area. The erection of this bridge is here opposed by a citizens group of the District of Columbia which does not seriously attack the basic merits of the overall program to improve highway traffic congestion but instead ground their opposition on an alleged failure to comply with certain procedural requirements imposed by statute which are applicable to the planning and construction of the project. In such matters, under our form of government with its separation of powers, the function of policy making is assigned to the Legislative and Executive Branches. Congress enacts the basic laws and these are carried out by (1) the Executive Department functioning principally through the Department of Transportation, headed by the Secretary of Transportation, a member of the President's Cabinet, Mr. Volpe, though other federal departments may perform isolated functions; and (2) by the District of Columbia acting through its Highway Department.

It should also be noted that the Constitution vests Congress with complete control over the entire area of the District of Columbia for all governmental purposes and insofar as legislation is concerned vests it with the combined powers of the federal and state governments. U.S. CONSTITUTION, art. I, § 8; *Kendall* v. *United States,* 12 Pet. 524, 618 (1838); *Stoutenburgh* v. *Hennick,* 129 U.S. 141, 147 (1889); *Shoemaker* v. *United States,* 147 U.S. 282, 300 (1893); *Atlantic Cleaners and Dyers* v. *United States,* 286 U.S. 424, 434–35 (1932); *O'Donoghue* v. *United States,* 289 U.S. 516, 539 (1933). The Constitution thus imposes a precise duty upon the members of Congress to look after the needs of the District of Columbia in addition to those of their individual district constituents. Members of Congress are also charged with guarding all the interests of the entire nation in the District of Columbia as the seat of our national government. Pursuant to this assignment of responsibilities, Congress and its members have taken cognizance of the need for transportation facilities in the District of Columbia and the surrounding metropolitan area. To meet the area's anticipated transportation needs it has authorized the appropriation of federal funds for the construction of a metropolitan subway system and has also authorized and directed that substantial additions be constructed to the thru-highways in the area. These additions include the erection of the Three Sisters Bridge.[1] In this connection it was the decision of Congress that the subway construction and the additional highways (including the Three Sisters Bridge) would be built contemporaneously. This conclusion follows from the facts of the contemporaneous appropriatons and the express congressional direction that work on the Three Sisters Bridge begin within thirty days after the congressional enactment (82 Stat. 815).

The remainder of this opinion deals with the very extraordinary majority opinion—extraordinary in that it effectively sets aside for one alleged reason or another *every* finding of the trial court that the Government had in any way complied with the statutes in question. In its own language:

"As to the provisions with which the District Court found compliance, however, we have concluded that the statutory requirements were not satisfied."

Majority opinion, page 3.

In this terse manner the extensive findings of the trial court are effectively negated. The discussion of the application of the separate statutes (Title 23, U.S. Code) which follows fully demonstrates the wide gulf between the majority and the practical trial judge who heard all the witnesses in an extensive 12-day hearing, received 1,025 pages of depositions and then thoroughly documented his findings in an opinion covering 40 printed pages. *D.C. Federation of Civic Associations* v. *Volpe,* 316 F. Supp. 754 (D.D.C. 1970).

SECTION 138—FEASIBLE AND PRUDENT ALTERNATIVES AND PLANNING

The majority opinion sets aside the determination of the trial court that the Secretary had complied with the requirements of section 138[2] largely because of an absence of formal findings and an administrative record in the Department of Transportation. The majority opinion asserts that all possible planning to minimize harm to the affected parkland and historic sites[3] could not have been carried out because the final design of the ramps and interchanges had not been completed when the Secretary approved the project. However, the lack of findings and the normal departmental administrative record is fully and satisfactorily explained by the fact that the Secretary personally made the necessary decisions and the Department file thus does not include the usual interoffice memoranda reflecting action by subordinates which is a feature of those projects when the Secretary does not personally exercise his statutory responsibility. After all, the statute places the duty upon the Secretary to make such determinations and his decision should not be set aside because of the absence of documents which are not necessary or normal when he personally exercises that responsibility. This Secretary of Transportation is not a figurehead. He has had extensive prior experience in highway programs. His background and record indicate that he is personally capable of making not only the ultimate decision on the bridge project but also many of the underlying minor, but basic, decisions.[4]

Further, I would not conclude that the Secretary failed to indulge in all possible planning to minimize harm to the park because his consideration of the amount of land to be taken by the ramps was based on the *preliminary plans* for the ramps. In this respect the opinion of the trial court states:

"Secretary Volpe testified that he based his determination on the preliminary planning for the ramps and interchanges which had been done at that time. Although he conceded that the final design of the ramps was not complete, he pointed out that there were *very limited alternatives available.* He stated that before he approved the bridge project, he was satisfied, and the Department of Interior, which had jurisdiction over the parklands, was satisfied, that the designs which would be developed based on the preliminary plans would result in a minimum taking of parkland." [Emphasis added.]

D.C. Federation of Civic Associations v. *Volpe, supra,* 316 F. Supp. at 774–75. I construe this statement of the trial court as a finding that the Secretary took into consideration the amount of park land that might be required under *all* the limited alternatives for the ramps and interchanges. Thus, the final selection of any ramp, etc., design would not present any problem that the Secretary has not already considered.

As to the suggestion of the majority that the use of the word "harm" in the statute confers authority upon the courts in this case, where only Government land is involved, to pass upon the "subtle calculations" inherent in determining the "aesthetic value" of this bridge, it is my view that Congress had more practical considerations in mind and did not thereby direct the rejection of projects which while they may be "pleasing" to the eye might by some personal standards be considered not to be "beautiful." *See* Webster's New International Dictionary, 2d ed.

The majority opinion further states that the Government can hardly maintain that there was no "feasible" alternative to the construction of the Three Sisters Bridge because this exemption under *Overton Park*[5] only applies if the Secretary finds that as a matter of "sound engineering" it would not be feasible to build the highway along any other route. To my mind this argument is not foreclosed to the Government in the least. The majority's comment may have been falsely premised on a belief that sound engineering referred only to structural features, but there is much more to highway engineering than the stability of the structural features that may be constructed. Certainly the location of present highways and

Footnotes at end of article.

bridges in the Washington area when combined with various topographical features, existing traffic flow patterns, and the fact that one objective of the Three Sisters Bridge project was doubtlessly intended to alleviate some of the traffic congestion presently existing on the highways within the parklands on both sides of the river in the vicinity of the Three Sisters Bridge, might compel the conclusion that as a matter of sound *highway* engineering the only feasible project that would correct the congestion would be to erect a bridge in the vicinity of the Three Sisters Islands.[6] I would thus not rule out the possibility that sound highway engineering would practically dictate a bridge at that location and that it would not be feasible to correct that traffic congestion by the construction or expansion of a bridge at any other location. The controlling engineering principles when applied to the facts here present may not produce such a conclusion but there is nothing in this record to indicate that such conclusion could not properly be dictated by the application of sound highway engineering principles.

The personal involvement of the Secretary in the decision also explains the alleged failure of the Department to process the matter through normal procedural channels in the Department. When a statute directs a Cabinet officer to make a decision, that decision should not be criticized or found to be faulty because he did not delegate the groundwork to subordinates and then rubber stamp their decision.

The majority opinion also states that:

"Secretary Volpe did not consult with other planning agencies to coordinate efforts to minimize harm to the park and historic sites."

Majority opinion, page 11. This statement refers to something that is not required by the statute. It seems clear that the provision of section 138 requiring "all possible planning to minimize harm to such park . . . or historic site from such use"[7] does not require that the Secretary of Transportation "*consult* with other planning agencies to coordinate efforts to minimize harm to the park and historic sites."[8] (Emphasis added). The majority opinion while it does not state so exactly, seems to be trying, by such language, to give the National Capital Planning Commission a voice in the Secretary's decision by compelling the Secretary to "consult" with them. But the statute does not so provide. It requires only that the Secretary engage in all possible *planning* and not that he consult every group that may have an axe to grind—he *may* consult with such groups but there is no requirement that he do more than indulge in "all possible planning." Clearly consulting is something more than planning. The statute directs the Secretary to make the decision and he is not forced to share that decision with outside agencies under the guise of consulting. The statutory requirements are already cumbersome enough without having the majority try to invent new requirements.

As for air pollution, I find the trial court's finding that "air pollution was an overall consideration in this as well as all interstate highway projects"[9] to completely satisfy any requirement in this respect. Moreover, it seems obvious to me that the bridge would not *create* any air pollution, and that to the extent that it relieved highway congestion on the present highways in the parks it would *decrease* air pollution. In this respect, as in other instances, appellants and the majority are straining at gnats. Instead of sustaining appellants' vague generalized objections to the present plans, I would require the objectors to show precisely how some of the plans being considered by the Secretary failed to meet the statutory standard or that some other feasible plan would cause less harm.

It also seems to me that, in requiring approval by the Secretary of final engineering plans for all details before the project can proceed, the majority are giving an overly technical, legalistic and impractical interpretation to the statute. What the Act requires is that the Secretary "not approve any *program* or *project* . . . unless there is no feasible and prudent alternative . . . and all possible *planning* to minimize harm . . ." was indulged in. To my way of thinking this would permit the Secretary to approve a program or project which is described by general specifications and reasonably precise locations without having the final blueprints. Certainly as a practical matter there must be room for some preliminary approval prior to the preparation of blueprints because no government is going to spend the millions of dollars necessary to prepare the final drawings without some prior approval that the drawings are being prepared along lines acceptable to the approving authority. If it subsequently develops that the final plans for some phase of the project do not meet the statutory standards they may be attacked at that time. Alternatively, the preliminary plans could be attacked upon a showing that they did not meet statutory standards. But there is neither such showing here and I would not hold up projects, as the majority holds up this project, unless the objectors could demonstrate that substantial harm would result from the presently existing plans which would be alleviated by some other plan. Insofar as this affects the possible ramps and interchanges here it would be a relatively simple matter to consider all the "limited alternatives" and make a decision thereon. I would thus not remand for any purpose connected with section 138.

SECTION 134—COMPREHENSIVE TRANSPORTATION PLANNING PROCESS

This section requires the Secretary to cooperate with the states and not approve highway projects unless he finds them to be based on a continuing comprehensive transportation planning process carried on cooperatively by "states and local communities."[10]

In considering the requirements of this section the majority reverse the trial court by concluding that the Public Roads Division Engineer (Mr. Hall), to whom the Secretary delegated his responsibility under section 134, had improperly in turn delegated his responsibility to the Transportation Planning Board (TPB) of the Metropolitan Washington Council of Governments (COG), because, they allege, Mr. Hall believed that "TPB was the primary agency to which he should look in making his finding." But certainly the belief that TPB was "the primary agency" for such purposes does not constitute a delegation of his authority. The record thus does not support the majority's finding of improperly delegated authority.

Moreover, the TPB was the *only* agency in the area that did satisfy the requirement of the statute of a body carrying on a "continuing comprehensive transportation planning *process . . . cooperatively by states and local communities. . . .*" Also, as the trial court noted, the District of Columbia, through resolution of its Board of Commissioners on June 17, 1965, provided for the District's participation in the planning processes carried on by TPB.

What is really involved in the majority's opinion in this respect, as with its criticism under section 138 that Secretary Volpe did not *consult* with other planning agencies, is another backhanded attempt to elevate the National Capital Planning Commission (NCPC) to a point where it can obstruct the project for its own ends. However, the NCPC is "concerned with planning *solely* for the District of Columbia," and thus does not meet the requirement of the statute for a planning organization being carried on "cooperatively by states and local communities." In contrast, the TPB is a regional organization[11] and does satisfy the statute. It is thus my conclusion that the majority exceeded its authority on this appeal when it ruled, contrary to the facts, that Mr. Hall had delegated his authority. Similarly, the majority are acting contrary to the statute, if they are attempting to compel the Secretary to be governed by the views of the NCPC. I might add that the situation here is not novel in the United States. Comprehensive highway plans traditionally run into many local objections, some selfish and some meritorious. When such situations arise they can only be solved by a fair application of the law, which I do not consider here justifies the majority in indirectly suggesting an interpretation of the statute that would give appellants, through the narrow interests of the NCPC, a whip hand in the final decision.

A further example of the tenuous rationale of the majority in its reversal appears in its attempted characterization of the TPB approval of the Three Sisters Bridge as a "stale" approval.[12] The TPB formally approved the Three Sisters Bridge in December 1967 as "consistent with comprehensive planning in the region" and since that time, as the District Court found, "the TPB has continuously reviewed the transportation system for the area and . . . the approval of the Three Sisters Bridge has never been rescinded."[13] The Division Engineer of the Bureau of Public Roads (Mr. Hall) considered this approval of the bridge when he made his finding in August or September, 1969, that the project was "based on a continuing comprehensive transportation planning process carried on cooperatively by states and local communities."[14] On these admitted facts, I consider it to be a gross distortion of the record to characterize Mr. Hall as acting upon a "stale" approval, when the original TPB approval was within twenty months, and the area transportation system had been "continuously reviewed" by the TPB since then without any alteration in its approval of the bridge. It is also incorrect to call such approval "inapposite." And to require a "comprehensive *plan*" (which the court refers to, whatever that might mean as applied to a project for a single bridge), as opposed to requiring that project to be consistent with "comprehensive *planning*," is to attempt to impose a requirement that is not imposed by the statute.[15]

I thus concur in the trial court's finding that the requirements of section 134 were fully complied with and dissent from the contrary conclusion of the majority here.

SECTION 109(a)—THE SAFETY OF THE PROJECT

I concur in the trial court's conclusion to require further study of the structural feasibility of the bridge but dissent from that portion of the majority opinion which states that the Secretary "undertook no study of the [air pollution] problem." As previously stated the Secretary testified that "air pollution was an overall consideration *in this* as well as all interstate highway projects"[16]; thus I consider that the air pollution problem was properly considered and disposed of. I would further permit work to proceed upon the *excavation* for the piers because this work is in the nature of a preliminary test since preconstruction borings are not conclusive. Thus, according to the testimony there will always be some doubt as to the absolute feasibility of the location and plans until the excavation is completed for the piers. It is my view that given the approval of Congress, and the necessary available appropriations (both of which the project has),

Footnotes at end of article.

it is within the proper discretion of the Secretary to proceed to that extent.

SECTION 128—THE LOCATION HEARING

Since the record is devoid of any proof that the present location of the bridge and ramps would affect the public in any manner substantially different from the three locations (which spread eagled the present location) discussed at the 1964 hearing. I would concur in the findings of the trial court that the public hearing requirements were substantially complied with. I thus dissent from the statement by the majority that the trial court's opinion was not clear that a finding had actually been made. To me it is perfectly clear that the court so found when it ruled that the present location was "not a new location" within the meaning of section 6a(1) of the PPM. The finding by the trial court that "no private property will be taken for the bridge or its ramps and interchanges" is also relevant to the finding with respect to the location.

SECTION 317—THE MAP

This section requires that a map should be filed showing the portion of land which a department desires to appropriate. In this connection the majority opinion in footnote 61 refers to a letter of December 15, 1970 from the National Park Service and indicates that the plaintiffs may present this matter to the District Court for reconsideration of its ruling under Section 317. It seems clear, however, that the letter does not relate to any parkland but only to the "adverse impact (of traffic conditions) on the parkway (the highway)." It is thus may opinion that the letter would not have any relevance to any issue under section 317.

CONGRESS, REPRESENTATIVE NATCHER AND SO-CALLED POLITICAL INFLUENCE

In Part II of the majority opinion Judge Bazelon deals with the position of Congress and refers principally to some statements by Representative Natcher relating to the Three Sisters Bridge. The opinion infers that Representative Natcher by his acts was a party to forcing approval of the Three Sister Bridge without regard to its merits, but the record does not so reflect. As the trial court found, Representative Natcher stated that he would do what he could to withhold appropriations for the construction of the District of Columbia rapid transit system "until the District complied with the 1968 Act" and "the freeway project gets under way beyond recall."[17] Representative Natcher was thus merely attempting to see that the laws enacted by Congress were carried out. The Three Sisters Bridge was just one of several freeway projects upon which Congress in 1968 had directed the District of Columbia to commence work.[18] It is not unusual or improper for Congress to withhold appropriations until its laws are complied with. In discussing the public position of Congress, as articulated by its laws and Representative Natcher, Judge Bazelon states:

[T]he impact of this [congressional] pressure is sufficient, standing alone, to invalidate the Secretary's action. Even if the Secretary had taken every formal step required by every applicable statutory provision, reversal would be required, in my opinion, because extraneous pressure intruded into the calculus of considerations on which the Secretary's decision was based." (Majority opinion, p. 24)

And further:

"[T]he [trial] court determined as a matter of law that since the Secretary was not acting in a judicial or quasi-judicial capacity, his decision would be invalid only if based *solely* on these extraneous considerations [the influence emanating from Representative Natcher]." (Majority opinion, p. 25)

Judge Fahy does not agree that the trial court found that extraneous pressure had influenced the Secretary's decision and I find it impossible to read the findings and conclusions of the District Court as announcing that holding. In this respect the trial court's opinion states:

The mere fact that the Secretary was aware of the Congressional pressure to build the Three Sisters Bridge is not sufficient to invalidate his action in directing that the bridge be restored to the Interstate System. Since the issue in this suit is whether there has been compliance with Title 23 of the United States Code, *the political pressure exerted by members of Congress is relevant only as to whether it may have caused Secretary Volpe to act without considering the merits of the project as required by Title 23.* As will be discussed in connection with § 138, Mr. Volpe commenced an exhaustive study of the merits of the Three Sisters Bridge project soon after taking office, and did not come to a decision that the bridge was essential until the Summer of 1969. *The Court believes the Secretary's testimony that his decision was based on the merits of the project and not solely on extraneous political pressures.* It is true that Mr. Volpe was also interested in securing the release of the rapid transit appropriations, and that the approval of the bridge led to the release of those funds. *But the Court finds that the mere fact that the Secretary was aware of this pressure does not invalidate his decision that the Three Sisters Bridge is an important and necessary part of the Interstate Highway System.*

* * * * *

The plaintiffs contend that the Congressional pressure for the contruction of the Three Sisters Bridge was of such a character that it can reasonably be inferred that it had *some influence*, conscious or unconscious, on the decision of the Secretary to redesignate the bridge as part of the Interstate System. From the evidence of the contemporaneous statements of Secretary Volpe, and his testimony in this case, there is no question that the pressure regarding the rapid transit appropriations was given some consideration at the time of the approval of the project in August, 1969. But the Court concludes that this does not invalidate the decision of the Secretary in this case. . . . The statute commits the decision to the Secretary's discretion. There is no requirement that he base his decision only on matters presented at a public hearing, but rather, *there is only the implied requirement that he base his decision on the merits of the project. In view of the Secretary's testimony that he made an exhaustive review of the merits of the project and based his decision on that study, this Court will not invalidate his decision.* The present case is further distinguishable from *Jarrott* in that there the contacts with the Board were secret, while here the actions of Congressman Natcher and others are a matter of public record contained in official Congressional documents and speeches made on the floor of the House of Representatives. [Footnote omitted, italic added.]

D.C. Federation of Civic Associations v. *Volpe*, 316 F. Supp. 754, 765–766–767 (D.D.C. 1970).

It is submitted that any fair reading of the trial court's opinion cannot twist its language to support Judge Bazelon's conclusion that it held that the Secretary's decision would be invalid *"only* if based *solely* on these extraneous considerations." While the trial court found as a fact that the Secretary's decision was "based on the merits of the project and not solely on extraneous political pressures," this is only one of several fact findings; it is not the basis for the decision of the trial court and such factual finding is not the application of any rule of law. The trial court also found that "the mere fact that the Secretary was aware of this [congressional] pressure does not invalidate his decision . . . ." But most importantly, the controlling conclusions by the trial court recognized the "implied requirement that he [the Secretary] base his decision on the merits of the project" and that the Secretary had made an exhaustive review of the merits of the project *and based his decision on that study,* [and] this Court will not invalidate his decision. (Emphasis added).

It thus seems clear to me that the trial court (Chief Judge Sirica) thereby found that the Secretary had based his decision upon the merits of the project. I specifically concur in this conclusion of the trial court and disagree with Judge Bazelon's solitary conclusion with respect to this phase of the case. Judge Fahy also does not agree with Judge Bazelon that the trial court found that extraneous pressure had influenced the Secretary's decision. It is thus clear that as presently articulated in these opinions a majority of the judges on this panel do not require that new determinations "on the merits" be made because of the interjection of any, for want of a better name, political pressure.

Judge Bazelon's opinion also discusses the *relevance* of the position of Congress on the appropriations to the matter of the Three Sisters Bridge. Under *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 416 (1971), the Supreme Court indicated that "The court must consider whether the decision [on the use of parklands] was based on a consideration of the relevant factors." I find that the trial court made the proper finding when it determined after a lengthy trial that the Secretary based his decision on a "review of the merits of the project . . . [and] . . . that study." While the majority opinion states it is not holding that the bridge can never be built, if Judge Bazelon's individual view as to the position of Congress in this and other matters were to prevail, the result would come close to setting up legalistic standards which are practically impossible of compliance. Judge Bazelon's opinion would do that here by deciding, contrary to the finding of the trial judge, that because a member of the Cabinet had *knowledge* of the position of Congress on appropriations for subways and highways in the District of Columbia that his decision with respect to the merits of a highway project must necessarily have been improperly influenced by that information.

Actually any member of the Cabinet, worthy of his position would necessarily know the position of Congress on such matters. No person with the position and ability to make the decision with respect to the Three Sisters Bridge would be ignorant of the publicly expressed congressional position on such matters. What Judge Bazelon fails to consider is that there were congressional pressures both ways and that the trial judge after full consideration found as a fact that the Secretary based his decision on a study of the merits of the project. For an appellate court to reverse such conclusion on this appeal is to overstep its authority to determine whether the action of the Secretary was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." The Supreme Court has said that this court has no authority to set aside the Secretary's action on a finding that it was "not supported by substantial evidence" or "unwarranted by the facts." *Citizens to Preserve Overton Park* v. *Volpe, supra*, 401 U.S. at 414. Likewise, the credibility of witnesses is a matter in which the trial judge is normally considered to have a particular province in actions tried upon the facts without a jury. FED. R. CIV. P. 52(a).[19] Judge Bazelon's view of the matter would violate both of these rules.

Judge Bazelon also reflects an overly suspicious view with respect to the effect of so-called political pressures. An individual's attitude toward this type of question is closely related to his individual trust in

Footnotes at end of article.

human beings—whether he believes a human being can resist improper pressures. I do not find it unusual for a Cabinet member to be capable of resisting such pressures. Moreover the law is that in the absence of evidence to the contrary (and there is no such evidence here) public officers are to be presumed to perform official acts in accordance with the law.[20] As I read Judge Bazelon's opinion, however, it is his individual view that such pressures are irresistible. In the face of such colossal distrust of Government officials, the mere existence of the vestiges of pressure becomes equivalent to the reality of duress. I find that conclusion to be unsupportable—and contrary to law.

The realities of this situation are that under the Constitution the Congress of the United States has a wider voice in the affairs of the District of Columbia than it does in the affairs of states or other cities. Pursuant to its constitutional mandate Congress does take a firm hand in matters affecting the District and that is precisely what this court found was lacking in the first case (1968) involving the District highway program. *D.C. Federation of Civic Associations, Inc.* v. *Airis*, 129 U.S. App. D.C. 125, 391 F. 2d 478 (1968). But no Congressman has any weight in such matters beyond his ability to speak for Congress and to the extent that he does speak for Congress he is only calling attention to the expressed will of Congress.

Congress has spoken in this matter. In Section 23 of the Highway Act of 1968[21] it ordered the erection of the Three Sisters Bridge, not as a single project but as part of the broad highway improvement program for the Washington Metropolitan area. And Congress and those who speak for it have a continuing interest in seeing that the expressed will of Congress, as clearly enunciated in a statute signed by the President, be carried out.

Moreover, Congress has also declared that the relationship of the highway improvement program in any state, or the District of Columbia, be coordinated with plans for improvemen's in other affected forms of transportation (this would include subways) which are formulated with due consideration to their public effect on the future development of large urban areas. In this respect Title 23, §134, provides as follows:

§ 134. Transportation planning in certain urban areas,

It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in *the development of long-range highway plans and programs which are properly coordinated with plans for improvement in other affected forms of transportation* and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing *comprehensive* transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. Added Pub. L. 87-866, § 9(a), Oct. 23, 1962, 76 Stat. 1148. (Emphasis added).

Thus, this congressional mandate applies to both the subway and to the highway program for the Washington Metropolitan area with which we are here concerned. To the extent that it provides that the Secretary shall not approve highway projects in large urban areas unless he finds such projects are based on a continuing *comprehensive* (*i.e.*, rail and highways) transportation planning process in conformance with the objectives stated in Section 134, it is essential that the Secretary of Transportation in approving highway plans be concerned with the program to build subways in the District of Columbia. Indeed it would be impossible and contrary to law for any Secretary of Transportation to pass on any major highway project in the District of Columbia without being familiar with and considering its effect and relationship to the subway construction program. In carrying out this statutory duty the Secretary must determine, in this case with respect to the District of Columbia, that the proposed subway and highway plans will *combine* to produce "modes of transportation in a manner that will serve the States and local communities [here the Washington Metropolitan Area] efficiently and effectively." It is obvious, if the subway program were to proceed without the necessary highway construction, that the modes of transportation being built would not be efficient or effective. To this extent some joint consideration of subway and highway construction (including the Three Sisters Bridge) was a relevant matter and I do not find that the Secretary exceeded his authority by giving such matters more weight or consideration than was required by the statute.

In its discussion of "prudent alternatives" the majority opinion really attempts to define the problem as being one to determine whether a unique problem of extraordinary magnitude was posed by the potential loss of appropriations for the District subway. This is completely foreign to what section 138 is all about and does nothing more than indicate a preoccupation with the position of Congress.

Actually when section 138 speaks of prudent alternatives it refers to alternatives to the use of parkland for the erection of the bridge at one location or another. The majority generally ignore the fact that the topographical features of the river with the high, steep banks of the Potomac Gorge, when coupled with the existing highways and parklands on both sides of the river, would cause the location of any other bridge that would meet the traffic congestion problem to affect existing parklands in a substantially similar manner to the Three Sisters project. The case is unique in those respects. It is obvious that the viable alternatives would affect parklands substantially to the same extent.

The majority also ignore the fact that the so-called parklands involved on the Virginia side of the river are all in the George Washington Memorial *Parkway*. Highways have always been an important part of this highway park. The George Washington Memorial Parkway was established by Congress (46 Stat. 482 *et seq.*) as a narrow elongated parkway along both banks of the Potomac River from Mt. Vernon and Fort Washington to the Great Falls of the Potomac. It parallels the Potomac River from Mt. Vernon to a point above the Great Falls on the Virginia side, except for the City of Alexandria, and from Fort Washington (in Maryland across from Mt. Vernon) to a similar point above the Great Falls on the Maryland side, except within the District of Columbia. One of the congressional purposes in establishing the parkway as a memorial was to provide for the construction of extensive highways within the dedicated area. The legislation also sought to protect and preserve the natural scenery of the Potomac Gorge and the Great Falls of the Potomac, to preserve the historic Patowmack Canal and to acquire that portion of the Chesapeake and Ohio Canal below Point of Rocks (46 Stat. 482-83).

The fact that this park has to a substantial extent, and always has had extensive highways within its confines, makes it practically impossible for any proposed bridge in this area to be erected without affecting some of its lands. This results from the fact that much of the traffic congestion which the proposed bridge seeks to relieve is traffic over the automobile highways within the parkway itself.

It is thus submitted that (1) the restrictive alternatives occasioned by the topography and location of the parklands, and (2) the nature of the parkland here involved, established by congressional legislation with substantial highways within its confines as one of its principal purposes, make the proposed Three Sisters Bridge a unique problem. It should also be noted that this highway park was established by Congress and that Congress has power by a subsequent act to change it.

In its peroration to Part II the majority opinion attempts to disclaim certain obvious implications of its decision. However, in so doing, it merely emphasizes the partial and slanted view it takes of the facts. Thus it states they are not suggesting any impropriety in the acts of those who "strongly advocate the bridge"; then next imply that there is some question as to the authority of such persons to exert pressure on Secretary Volpe which resulted in placing the Secretary in such an extremely treacherous position; and then conclude by denying that they are suggesting that Secretary Volpe acted in bad faith or in deliberate disregard of his statutory responsibility. Finally, they set aside the Secretary's finding on grounds which the Secretary testified under oath did not exist and the finding of the trial court supported the Secretary's finding. The results reached by the majority opinion thus contradicts its disclaimers. So whether the majority are implying that the Secretary acted contrary to his statutory responsibilities or not, they end up at exactly the same places as though he had.

However, all of this buys time for the objectors and keeps alive the hope that a new Secretary or a new Council will succumb to pressure and disapprove the project. The majority opinion does not criticize pressure from the objectors and it does not fully state the history of the prior approvals and disapprovals of the project. Originally the Three Sisters Bridge was designated as part of the entire metropolitan freeway project. Nothing in this record indicates that this was not a decision on the engineering merits uninfluenced by any improper pressures. However, in the waning days of an outgoing Presidential Administration, a lame duck City Council of the District of Columbia on January 17, 1969, three days before a new administration was to take office, deleted the bridge from the Interstate Highway System at the request of the District government. The majority do not question the basis of this action, but only attack the reversal of this decision.[22] It may well be that they should question the background of that decision rather than what may well have been a rectification of a prior error or improper action.

PROCEDURE ON REMAND

In the conclusory paragraph of its opinion the majority suggests that the Secretary establish a "*full scale* administrative record which might dispel any doubts about the *true* basis of his action." When members of an appellate panel, for no reason more substantial than their own innate suspicion, elect to disbelieve the sworn testimony of a member of the Cabinet that his final decision was not influenced by outside factors, and also to circumvent the factual finding of the trial court to the same effect, in my opinion, it is not likely that a more extensive administrative record would cause them to believe him in the future. A court that has gone to the great extremes that this court has to reverse the trial court here can always find reasons satisfactory to it for avoid-

Footnotes at end of article.

ing practically any subjective decision required with respect to the bridge. It may well be that the only hope to carry out the expressed will of Congress lies with the Supreme Court.

To the extent that the majority opinion differs from the views hereinbefore set forth, I respectfully dissent and I concur in the remainder.

FOOTNOTES

[1] The proposed bridge lies almost completely in the District of Columbia since the Potomac River is entirely within the District. The bridge approaches on the south bank would be within the jurisdiction of Virginia.

[2] § 138 requires a determination that there was "no feasible and prudent alternative to the use of such land" and that "the project includes all possible planning to minimize harm to such park . . . or historic site." 23 U.S.C. § 138.

[3] *Georgetown as an historic site.* The Old Georgetown District was created within the District of Columbia by Chapter 984, approved September 22, 1950 (64 Stat. 903). Its west boundary was fixed at "Archbold Parkway from Reservoir Road to the Potomac River. . . ." The district so established would be slightly to the east of the presently prescribed location of the Three Sisters Bridge. If any of the ramps or interchanges were to come within said district, it is obvious from the maps that it would only touch a *de minimus* area at the southwest corner of the district which is devoid of buildings. Thus, the Three Sisters Bridge does not imperil the architecture in Georgetown. The Old Georgetown District was established "to preserve and protect places and areas of historic interest, exterior architectural features and examples of the type of architecture used in the National Capital in its initial years. . . ." (64 Stat. 904). To effectuate the intent of Congress the Act required the Commissioners of the District of Columbia before issuing any permit for the construction, alteration, reconstruction or razing of any *building* within the Old Georgetown District, to refer the plans to the National Commission on Fine Arts for a report as to "the exterior architectural features, height, appearance, color and texture of the materials of exterior construction which is subject to public view from a public highway." The Commission was then required to report its recommendations as to whether the plans with respect to any building would preserve the historic value of said district and if not to suggest changes. Thus, while the Act referred to "places and areas" of historic interest the operative features of the law were directed solely to buildings within the district and there was no showing made in this case that any buildings within the district would be affected by the Three Sisters Bridge or any of the ramps and interchanges that would be constructed under any plan. And as stated above, only a *de minimus* area at the southwest corner might be affected by the ramps and interchanges. The bridge itself would not touch the Old Georgetown District.

Also the character of the so-called parkland on the north bank of the Potomac (the D.C. side) where the bridge abutments would be erected consists practically entirely of a railroad right-of-way, the Chesapeake and Ohio Canal and a public highway. Thus, any substantial interference with "green places" on the District of Columbia side of the river has not been demonstrated.

[4] Biographical data on Secretary of Transportation John A. Volpe indicates that he was born December 8, 1908, graduated from high school and following two years of night school majored in architectural construction at Wentworth Institute. He engaged in the construction business in Massachusetts from 1933 to 1943 when he volunteered for duty with the Civil Engineer Corps (Seabees) of the United States Navy. On his return to civilian life he held the rank of Lt. Commander and he then reopened his construction company. As the business grew, he set up offices in Washington, D.C. and Miami, Florida. He served as Commissioner of Public Works for the State of Massachusetts for four years beginning in 1953. In this position he undertook one of the largest highway construction programs in the history of Massachusetts. President Eisenhower named him as the first Federal Highway Administrator of the United States and he served in this position in 1956 and 1957 and thus became one of the architects of the $40 billion Interstate Highway Program initiated by the United States at that time. He is a member and past president of the Society of American Military Engineers and is also past president of the Associated General Contractors of America. He was also elected to three terms as Governor of Massachusetts. CONGRESSIONAL DIRECTORY, 92nd Cong., 1st Sess. 973 (1971).

[5] Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971).

[6] The so-called Three Sisters Islands consist of nothing more than three small rocks which project above the waters of the Potomac River. At low tide they are connected by a small sand bar.

[7] 23 U.S.C. § 138.

[8] Majority opinion, p. 11.

[9] D.C. Federation of Civic Associations v. Volpe, 316 F. Supp. 754, 775 (D.D.C. 1970).

[10] 23 U.S.C. § 134.

[11] D.C. Federation of Civil Associations v. Volpe, *supra*, note 9, 316 F. Supp. at 795.

[12] See page 15 of majority opinion.

[13] 316 F. Supp. at 794.

[14] *Id.*

[15] 23 U.S.C. § 134.

[16] 316 F. Supp. at 775.

[17] *Id.* at 762.

[18] Pub. L. No. 90–495, 82 Stat. 815 (1968).

[19] FED. R. CIV. P. 52(a) provides:

"(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41(b)."

[20] United States v. Chemical Foundation, 272 U.S. 1, 14–15 (1926) states:

"The presumption of regularity supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they have properly discharged their official duties. *Confiscation Cases*, 20 Wall. 92, 108; *United States* v. *Page*, 137 U.S. 673, 678–680; *United States* v. *Nix*, 189 U.S. 199, 205."

Oestereich v. Selective Service Bd. No. 11, 393 U.S. 233, 241 (1968) (Harlan, concurring), is to the same effect.

[21] § 23 of the Federal-Aid Highway Act of 1968 provides:

"SEC. 23. (a) Notwithstanding any other provision of law, or any court decision or administrative action to the contrary the Secretary of Transportation and the government of the District of Columbia shall, in addition to those routes already under construction, construct all routes on the Interstate System within the District of Columbia as set forth in the document entitled '1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia' submitted to Congress by the Secretary of Transportation with, and as a part of, 'The 1968 Interstate System Cost Estimate' printed as House Document Numbered 199, Ninetieth Congress. Such construction shall be undertaken as soon as possible after the date of enactment of this Act, except as otherwise provided in this section, and shall be carried out in accordance with all applicable provisions of title 23 of the United States Code.

"(b) Not later than 30 days after the date of enactment of this section the government of the District of Columbia shall commence work on the following projects:

"(1) Three Sisters Bridge, I–266 (Section B1 to B2).

"(2) Potomac River Freeway, I–266 (Section B2 to B4).

"(3) Center Leg of the Inner Loop, I–95 (Section A6 to C4), terminating at New York Avenue.

"(4) East Leg of the Inner Loop, I–295 (Section C1 to C4), terminating at Bladensburg Road.

"(c) The government of the District of Columbia and the Secretary of Transportation shall study those projects on the Interstate System set forth in 'The 1968 Interstate System Cost Estimate", House Document Numbered 199, Ninetieth Congress, within the District of Columbia which are not specified in subsection (b) and shall report to Congress not later than 18 months after the date of enactment of this section their recommendations with respect to such projects including any recommended alternative routes or plans, and if no such recommendations are submitted within such 18-month period then the Secretary of Transportation and the government of the District of Columbia shall construct such routes, as soon as possible thereafter, as required by subsection (a) of this section." (82 Stat. 827–8)

[22] If the present objectors were associated with the disapproval of the Three Sisters Bridge project in 1969 for reasons unrelated to its merits, it may be that they do not come into court with clean hands.

AMCHITKA TEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER), is recognized for 30 minutes.

Mr. HOSMER. Mr. Speaker, I have requested special order time today to make a report on the Cannikin test conducted on the island of Amchitka in the Aleutian Chain, 1,400 miles east of Anchorage, Alaska, at 5 p.m., e.s.t., Saturday, November 6, 1971. I was present there, along with Representative HANSEN of Idaho, as Joint Committee on Atomic Energy observers.

First let me state that the test was successful and it was conducted with complete safety by a dedicated and highly professional test team for whom I have the greatest respect and highest confidence. That team met the challenge of the demands placed on them to finish final preparations for the test on November 5, 1971, under the most miserable weather conditions—rain driven by cold winds steady throughout the day at 70 miles an hour and gusting to over 90. Their actions reaffirmed the values, tra-

ditions, and sense of duty which have consistently marked the American commitment and sustained this Nation so magnificently for nearly 2 centuries. The men and women involved rightly deserve our gratitude and respect.

The test is vitally concerned with the security of our Nation. It means that a weapon will be available for this Nation which will enable it to build a symmetrical ABM system, thus stabilizing the situation between the two superpowers so that mutual deterrence will continue and not be dissipated. This Nation is in a position of strength in its efforts to have a SALT treaty and to have some arms control limitations.

There have been warnings from a minority that Cannikin would be a tragedy for our Nation because of the environmental risks. First, there was the contention that the test would trigger a large natural earthquake. The fact is that the Richter scale reading of 7.0 was substantially identical to the reading of 6.99 predicted by the AEC. The earth movement 23 miles away from ground zero was medium for a few seconds. The ground motion was felt clearly by almost all residents at Adak, almost 200 miles to the east, and by some of the residents at Shemya, particularly those in wooden buildings where ground motion effects are magnified. Many minor aftershocks were recorded during the first 15 minutes after detonation. Thereafter the number began decreasing and have continued at a decreased rate. The minor aftershocks appear to be in the vicinity of the Cannikin site.

There were those that predicted that the test would unleash a tsunami which would carry its destructive force as far as Hawaii, Japan, and the west coast of the United States. There was no tsunami and the tsunami warning net was closed 25 minutes after the test. There were those who contended that radioactive gases could be emitted which would contaminate marine and eventually human life. There were no radioactive releases from the test. The possibility of such releases are constantly and carefully monitored.

In summary the test has been conducted in a most carefully planned and deliberate manner with complete safety always the objective. This Nation has a new weapon available for its defensive arsenal. There has been no earthquake; no tsunami and no radioactive material released.

There are also those who contended that the test would irreparably harm the wildlife on the island. As of 4:30 p.m. e.s.t., November 7, the test personnel who, after carefully patrolling the beaches and the island terrain, reported the following environmental impact:

First. One small lake near ground zero had been drained apparently because of a crack which had developed in the lake bottom. There are literally thousands of small lakes on the island.

Second. The oceanside cliffs along the Bering Sea side nearest the Cannikin site suffered some rockslides which were within the general predicted range.

Third. All sea otters observed were fine and well with the exception of one which was injured apparently by a falling rock.

Fourth. Test personnel beach walkers have found a few dead birds along the beach, but the cause of the deaths is not known.

Mr. Speaker, I am proud that the will of the majority of the Congress, the courts, and the American people have prevailed so that the groundless concerns of prophets of doom have not weakened this Nation's security. There follows the statements of the AEC Chairman, myself, and Representative HANSEN made immediately following the test from its control center:

REMARKS BY CHAIRMAN JAMES SCHLESINGER FOLLOWING CANNIKIN

All preliminary indications suggest that the Cannikin test has been conducted both successfully and safely. We had fairly significant ground motion here in the Control Room, but the sensation was just about what we had expected, something like the feeling of being temporarily in a stable cable car. The room rocked back and forth just a bit. Our technical people are beginning to analyze the data, and they indicate that they are pleased with the early reports and the instrument readouts.

The tentative indications are that the effects apparently were well within the range of projections. So our confidence in the safe conduct of this important test has been amply justified.

Cannikin has been a proof test of the warhead for the Spartan missile, a weapon which is part of the Safeguard ABM and is intended to strengthen the U.S. deterrent posture. This proof test permits us to introduce the Spartan warhead into the inventory while minimizing the likelihood of a defective warhead. I believe at this point that the final results of Cannikin will permit the AEC to certify the Spartan warhead for introduction into the stockpile within the appropriate deployment schedule.

We are all proud of the talented and dedicated people of the Atomic Energy Commission's Test Organization. We are also proud of the performance of the DOD people who have been engaged in this exercise and the personnel of other Government agencies. They have done an outstanding job under the direction of the Test Director, Bob Thalgott.

The circumstances yesterday were somewhat difficult. We had wind gusts up to 90 miles an hour, but despite these adverse weather conditions, we were able to button up, and the operation was completed precisely on schedule.

Also present with me here in the Control Room are two members of the Joint Congressional Committee on Atomic Energy, Craig Hosmer of California and Orval Hansen of Idaho. Perhaps Congressman Hosmer and then Congressman Hansen would be willing to say a few words. Both of them have been strong supporters of the President's ABM program, and over the years have given substantial support to the Atomic Energy Commission.

We are honored to have you with us here today, Congressman Hosmer.

REMARKS BY REPRESENTATIVE CRAIG HOSMER FROM AMCHITKA, NOVEMBER 6, 1971

This is Craig Hosmer, and I also extend my congratulations to the hundreds of scientists, engineers and technicians who have safely delivered this technical triumph.

But beyond that I think the event demonstrates that the majority still rules in our country.

The President certified the Cannikin experiment as a defense requirement and a majority of the Congress and a majority of the people have supported it.

Even the Supreme Court stepped in to stop a highly vocal minority from paralyzing this ABM proof test.

Americans can now be satisfied that their Government still will move when it should move and that the U.S. can still look after its national security when it ought to do so.

REMARKS BY REPRESENTATIVE ORVAL HANSEN FROM AMCHITKA, NOVEMBER 6, 1971

Thank you very much, Mr. Chairman. I want to say how pleased I am at what appears to be the successful execution of the test which is an important step in development of the Safeguard defensive system and may be an important step in the country's quest for peace and its desire to avoid war.

As a member of the Joint Committee on Atomic Energy I have for some time followed the careful preparations that have preceded this test, this being my second visit to Amchitka. The fact that I am here for the test is indication of my own confidence in the careful planning and in the safety with which the test was conducted.

I think it's proper to note at this point in the operation how the dedicated men, and some women who were part of the team, contributed to the success of the operation. During the time that I have been here I've seen them working very long hours and with great determination and with great skill. I think they have proved this effort contributed materially to the success of the mission.

ADDITIONAL REMARKS BY CHAIRMAN SCHLESINGER

We have now had a report from Palmer Observatory which indicated a reading of 7.0 on the Richter scale, just as predicted. So it is indicated that we had a full yield test. At the present time I am looking at the board which indicates that all of our radiation activity monitoring stations are reporting in that there has been not even a trace of radioactive release to this point. We are past the 12 minute mark.

DEVELOPMENT OF NEW TRANSIT TECHNOLOGIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, I would like to invite the attention of the House to an excellent article in the Minneapolis Tribune by Peter Vanderpoel concerning the urgent need for the Federal Government to finance the development of new transit technologies.

As the article points out we are pouring over $6 billion annually into road construction while starving our meager transit research and development programs. Simply improving our traditional bus and rapid rail systems will not entice the urban dweller out of his car and into public transit. People have shown over and over again that they would rather stay with their automobiles, congestion and all, than be herded into large buses or commuter cars.

Even urgrading these traditional types of transit to airline standards of comfort will not do the job. To use the airline analogy, it would be like the Boeing 707 trying to compete with the Lear jet if the private jet was as cheap to ride as the commercial airliner and if it was available on demand. The scheduled airlines would soon be out of business and the skys would be filled with private jets.

Well, our cities are today plagued by the automobile, which is an on-demand

type transportation with considerable creature comforts. A souped-up bus or commuter car just would not compete. We should be looking instead to the rapid development of new technologies already waiting in the wings. These technologies *can* provide people-pleasing, pollution and congestion free, public transit. Prominent among these new technologies are so-called personal rapid transit systems. They are new, different, and as yet not fully tested. Only the Federal Government has the resources to complete this development process, yet we continue to drag our feet as if there were really any other viable alternatives.

It is time we raise our sights and begin to think in terms of a NASA-type program for ground transportation which will immediately benefit the 7 out of 10 Americans currently living in our urban areas.

At this point in the RECORD, I will insert the article by Mr. Vanderpoel together with a letter to the editor which I wrote in response:

[From the Minneapolis Tribune, Sept. 21, 1971]

MASS TRANSIT LAGS AS HIGHWAYS GROW

(By Peter Vanderpoel)

PITTSBURGH.—"When the American people, through their Congress, voted a little while ago . . . for a $26-billion (interstate) highway program, the most charitable thing to assume is that they hadn't the faintest idea of what they were doing," Lewis Mumford wrote in "The Highway and the City" in 1956. "Within the next 15 years, they will doubtless find out."

Mumford was quite right. What the people and Congress did, among other things, was give the already-troubled urban mass transit industry a competitor of awesome proportions and assure that (despite the subsequent expenditure of billions of dollars on urban freeways) cities would continue to be choked with traffic.

The results of the interstate program, together with the creation—also in 1965—of the federal highway trust fund (dedicated solely to road-building), were referred to by nearly every one of a long list of speakers at the fifth International Conference on Urban Transportation here this month.

Decaying public transportation . . . rising fares . . . opposition to freeways . . . no money for transit . . . "unbalanced" transportation investments by the federal government . . . rising auto registrations. It could have been the first such conference, in 1966. Depressing talk, for transit enthusiasts, punctuated occasionally by descriptions of successful rail systems abroad (London, Tokyo) and of Buck-Rogersish dreams: magnetic, air-cushion trains traveling at supersonic speeds.

Only the federal government's spokesmen, it seemed, were cheerful. Vice-President Agnew said, in all apparent sincerity: "The most important change that has come about in this country is the need for better public transportation in our cities—a growing awareness that . . . subways and rapid surface transit are as essential to the health and growth of all our metropolitan areas as they have been to New York and Chicago."

Exactly 24 hours later, Walter Burke, secretary-treasurer of the United Steelworkers of America, said: "Why can't we get the federal government, our national leaders, to give mass transit priority attention and action? One uncontestable answer is that public pressure for public needs does not match economic pressures for private needs."

John Volpe, U.S. secretary of transportation, advised some 1,200 convention delegates that the need is for "action—stop talking and start digging."

But E. D. Brockett, Gulf Oil Corp., board chairman, said, "The only remedy for our sick (urban) transit systems is a large dose of money." And, before Baltimore—to name just one city—could take Volpe's advice, it would need approval of its request for $425 million in federal funds, which would leave only $50 million in the present federal capital-grants budget for the remainder of the nation.

"Too often public officials and community leaders cling to yesterday's transportation systems while attempting to provide mobility for urban people," said Carlos Villareal, head of the federal Urban Mass Transit Administration.

The problem, of course, is that there's not much to buy except "yesterday's transportation systems"—buses and trains. Dr. J. Herbert Holloman, provost of Massachusetts Institute of Technology, pointed out that federal research and development efforts on mass transit are "minuscule." About $50 million a year, or "as much as we spend in a week on space programs."

The prospects for urban transit are not uniformly gloomy. The pace of federal spending has accelerated somewhat in the past few years. Voters in a few cities soon may approve expenditures for new bus and/or rail systems. Three private companies are developing transit systems which, if not radical departures, are at least attractive, fast and—for some cities, anyway—efficient. But the main problem, for the foreseeable future, will be competition with the car.

Which brings one back to Mumford, the freeways and the dedicated highway trust fund. (Since 1956, incidentally, the price of that $26-billion interstate system has risen to more than $60 billion—a cost over-run that makes some defense contractors look efficient.)

About $6.3 billion was spent on U.S. street and highway construction in 1970. Of this, $4.1 billion came from highway-user taxes (on gas, tires, etc.) levied by the federal government and states (many of which, like Minnesota, also have dedicated trust funds). The money is raised automatically—no referendums requiring that taxes for more roads be "sold" to an increasingly tax-conscious public, although this is almost inevitably required to raise state and local mass-transit money. And the highway money is spent automatically—no review by state or federal lawmakers, who might decide to spend it some other way.

It's a classic closed circle—highway traffic generates tax revenue which must be used to build more roads, which attract more cars, which generate more revenue, which must build more roads . . .

F. C. Turner, an engineer and highway enthusiast elevated to the policy-making position of federal highway administrator by the Nixon administration, told the American Public Works Association in Washington last month that highways in cities "simply are irreplaceable—because there is nothing with which to replace them. And there will not be in our lifetime."

So long as the nation spends $6.3 billion a year on roads, and state and federal policymakers hold out a five-year, $3.1 billion mass-transit program as a marvelous achievement, Turner will be right. When that 10-to-1 ratio in favor of roads is combined with the locked-in approach of the highway trust fund, mass transit really hasn't a chance to compete.

"It is totally illogical," said convention speaker Alvin Rice, a vice-president of the Bank of America, "for the highway trust fund—and for state gasoline taxes—not to help finance urban transportation. Vehicle-related tax monies should help finance congestion-reducing mass transit."

Is anyone in Congress—or the Minnesota Legislature—listening?

HOUSE OF REPRESENTATIVES,
Washington D.C., October 6, 1971.

MR. PETER VANDERPOEL,
Minneapolis Tribune,
Minneapolis, Minn.

DEAR MR. VANDERPOEL: In your excellent article of September 21st, entitled, "Mass Transit Lags as Highways Grow," you ask if any elected officials are listening to those urging accelerated mass transit developments. I suppose the honest answer is that very few are. But, those of us who have been listening have not been hearing very much. Politicians react predictably to public indifference. They do nothing.

Since 1960, Congress has spent $43 billion on the space program, $978 million on the cancelled SST, and only $97 million on transit research and development. Obviously our priorities are all wrong. We have starved urban transit development which could materially improve the quality of life of 70% of all Americans, while pouring over $6 billion per year into highways.

Until public opinion has been effectively mobilized, elected officials will not seek solutions to the transportation crisis. We will continue to be hooked on highway construction programs which generate added congestion and greater devotion to the automobile. Our highway construction programs are wonderful but they do monopolize transportation funds and dictate patterns of living.

The inviolability of highway trust funds has kept them secure from transit uses. Consequently, transit development has had to rely on the shaky funding of annual appropriations in deficit years. Perhaps the time has come for us to consider using at least a part of the gasoline tax revenues for the construction of mass transit systems. President Nixon's special Transportation Revenue Sharing Plan, although not likely to be enacted this session, is the first serious proposal of this nature.

Obviously, it is time for the Federal Government to shift from baby steps to quantum jumps in urban mass transit. A few of us in Congress have repeatedly urged the Administration to raise its sights in funding requests for transit R & D.

This year Congress appropriated $65 million for transit development, almost twice as much as for any previous year, but still a woefully inadequate sum. There is reason to believe that the Administration intends to increase substantially its spending on transit R & D in the near future. Its about time!

New technologies are available, but unproved. Most promising of these are the so-called personal rapid transit (PRT) systems. But to move from present, obsolescent, technologies into PRT will require a Federal commitment roughly equivalent to that which launched the space program ten years ago. In this case, however, the payoff to the public will be immediate and obvious.

Yet it remains true that no level of government will push for transit development until the public demands improvements. No one can predict when the limits of public outrage will be reached, but awareness is building. The University of Minnesota is hosting the first National Conference on Personal Rapid Transit, November 1st-3rd. Hopefully this conference will serve to increase citizen interest.

In addition, recent proposals to turn our own Highway 12 into a 10 lane monstrosity has caused an unprecendent wave of indignation from residents of Golden Valley and surrounding areas. This, as yet localized, outrage has helped to generate interest in

finding new urban transportation systems.

Urban Mass Transit is today the most underdeveloped mode of transportation. It will stay that way until public impatience forces Washington, St. Paul, and local governments into more aggressive transit development attitudes.

Best regards,

BILL FRENZEL,
Member of Congress.

IN SUPPORT OF PRAYER AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, I voted for the resolution to amend the Constitution with respect to the offering of prayer in public buildings. I recognize that on this issue, like most issues, there are people of goodwill and sincere beliefs on both sides. My decision to vote for the amendment was not predicated on a desire to allow the State to dictate prayer or prescribe prayers for our children nor was it designed to weaken the historical separation of church and state, which, to my mind, has helped guarantee freedom of religion in this country for 200 years.

On the contrary, mine was a vote to return to the first amendment as practiced in this country from 1791 until 1962 when it was overturned by the Engle against Vitale case and the confusion started.

Another reason for my vote was the recognition that Congress was not, in fact, amending the Constitution; in passing this amendment, Congress would have sent it to the States to allow the people to decide whether or not they, in fact, wanted this constitutional amendment.

I greatly regret that this issue had to be decided in the way in which it was. And while I had many questions as to all the ramifications of this resolution, in the final analysis, my mind was made up by several recent decisions which have prohibited the free exercise of religion as guaranteed by the Bill of Rights.

Just this past October, the Supreme Court declined to review a Massachusetts school prayer case in which a town school committee defied the Court's 1963 ban by voting to allow voluntary classroom prayer. The State's highest court held the prayer plan to be unconstitutional and the Supreme Court refused to disturb that decision.

In an earlier Massachusetts case, a school committee passed a resolution providing that a 5-minute period be set aside before each school day to allow voluntary prayer among students and teachers. A superior court judge ruled that the resolution was valid insofar as it applied to students but unconstitutional as to teacher participation. The entire school prayer plan, however, was struck down as unconstitutional by the State supreme court.

Last year a New Jersey school board contended that the daily reading in its local high school was constitutional because students and teachers attended on a voluntary basis and the State did not select the prayer to be said. A superior court judge ruled the program in violation of the first amendment's ban on Goverment establishment of religion. The New Jersey Supreme Court affirmed the judgment unanimously. And these are only a few of the examples of cases decided in recent years—all upholding one of the Warren court's most controversial rulings.

However, the Bill of Rights provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

It is my understanding that by this first amendment to the Constitution our Founding Fathers were not constitutionally prohibiting the exercise of religion, yet they would not permit Congress to establish a particular religion. Furthermore, I have found no precedent in the 186 years prior to the Court's decision of any willingness on behalf of the Supreme Court to allow this country to recognize a state religion. In other words, there is no precedent for fear.

At this point, I am inserting in the RECORD two of the best articles yet to come to my attention on this issue in support of this amendment. They are by Father Howes, associate professor and chairman of city and regional planning at Catholic University, Washington, D.C. and the Lubavitcher Rabbi, Rabbi Menachem Mendel Schneerson. Also included is the language of the resolution to amend the Constitution with respect to prayer in public buildings:

[From NCEA Bulletin, Feb. 1968]

CHALLENGE TO THE DEMOCRACY: PUBLIC REVERENCE

(By Rev. Robert G. Howes)

When the U.S. Supreme Court interprets the First Amendment of the Federal Constitution in a manner which radically contradicts the consistent practice of the majority of the states, it does no singular, minimal thing. Whatever the particular practice, that interpretation immediately becomes a precedent affecting the whole future of religion in our public life. As such it must deeply concern not only whose practice is denied but also those who are involved in any way with religion as subject to and supportive of public policy.

On June 25, 1962, the Supreme Court interpreted the First Amendment as barring the following prayer:

Almighty God, we acknowledge our dependence upon Thee and we ask Thy blessings upon us, our parents, our teachers, and our country.

The prayer had been composed by a committee of religious leaders. It was made available by the State of New York for an entirely voluntary recitation by pupils and teachers in its public schools. Justice Stewart, in dissent, noted:

The Court has misapplied a great constitutional principle . . . What is relevant to the issue here is not the history of an established church in 16th century England or in 18th century America, but the history of the religious traditions of our people, reflected in countless practices of the institutions and officials of our government.

On June 17, 1962, the Supreme Court widened this interpretation to ban the Lord's Prayer and Bible reading in the public schools of Maryland and Pennsylvania. Once again, no teacher had been required to lead prayer, no pupil to join in reciting it. Specific provision was made for abstention on the part of those who did not wish to participate. There are many pleasant phrases in the two majority decisions. Most of them are collateral remarks, *obiter dicta*, that is remarks incidental to the real deciding reason. One could, and some did, assemble such remarks and claim that the court had done nothing more serious than to rule out a residual unfairness, leaving public religion itself wholly intact.

There are, however, other *obiter dicta* which are less sanguine. For instance, in the first decision Justice Douglas enumerates various instances of government accommodation to religion. Bishop James Pike, appearing before a Senate committee in 1962, called such reasonable accommodation "the great American middle way." Justice Douglas says "our system at the federal and state levels is presently honeycombed" with accommodation. "Nevertheless," he continues, "I think it is an unconstitutional undertaking whatever form it takes." In fact, the deed of the decisions, what the then Harvard Law School Dean Erwin Griswold called "the absolute and . . . extreme" reasoning of the court, is dangerously basic. Henry P. Van Dusen, then President of Union Theological Seminary, wrote:

The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances.[1]

Fordham University Law School Professor Charles E. Rice said:

The school prayer decisions, if followed, predictably will have the effect of raising agnosticism to the rank of the official public religion of the United States. The Court has now cast aside the historical affirmation by government in this country of the essential truth of theism, has embarked upon a search for neutrality, a search incapable of success, and has substituted agnosticism for the theistic affirmation to which a small minority has objected so strongly. And for its action the Court can point to no durable justification beyond its own inflated rhetoric and a tortured historical interpretation.[2]

The *Boston Pilot* editorialized:

ALL PUBLIC LIFE AFFECTED

The Supreme Court in the Lord's Prayer and Bible ruling has continued along a path unhappily familiar to all from its earlier decisions. The same tedious arguments emphasizing the establishment of religion clause are brought forth to support a position which turns its back on the total American tradition and outlaws the present practices of 39 states . . . Let us suppose that the Lord's Prayer and the Bible are excluded from the American public schools for precisely the reasons given by the Supreme Court. What is the next step? Clearly, all other expression of religion in public life must now be deleted . . .[3]

To suggest that pleasant phrases en route to decision can override the deed of the decisions themselves is to ignore the heart of the matter. That heart clearly is the equation by the Supreme Court of "establishment" with public reverence, whether free or not, whether institutional and sectarian or not. Even to question such an equation, the court said in its second decision, is "of value only as academic exercises!" The situation is, in short, as it was a century ago when Abraham Lincoln commented on the Dred Scott decision:

When all the words, the collateral matter was cleared away from it, all the chaff was fanned out of it, it was a bare absurdity. . . . The Dred Scott decision covers the whole ground, and while it occupies it, there is no room for the shadow of a starved pigeon to occupy the same ground.[4]

Footnotes at end of article.

Five years have passed since the first prayer ban. In those years, several significant things have happened.

(1) Literally hundreds of bills were introduced in both the House and Senate calling for a clarifying amendment to restore the First Amendment to its pre-ban interpretation and to forestall a further widening of the court's logic. There were 117 such bills on the House side alone in the spring of 1964. Senate Joint Resolution Number 1 of the 90th Congress was signed by 42 senators of both parties. It proposed a restorative constitutional amendment which would read:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

(2) Catholic response to the prayer bans was openly mixed, though there is no possible doubt that Catholics were in great numbers part of the massive proamendment majority across the nation. The National Council of Catholic Youth officially recorded itself as opposed to the prayer bans and called upon all of its local units to work for reversal. Otherwise, where Catholic apathy and even support of the decisions showed itself, it has been suggested that an underlying cause was self-interest:

It may be that some of it is motivated by the thought that if public education can be completely secularized (so that, as it has been said, "religion" in such quarters becomes "a dirty word"), then there will be an increased public demand for sectarian education which can combine religion with general education. This could then be an argument in favor of parochial schools, and as public schools decline, the argument for public support of parochial schools can be advanced in one guise or another.[5]

I hope this estimate is inaccurate. I fear it may be, in at least a partial sense, accurate. Our bishops wrote once that "religion is our chief national asset," and as such what happened to it anywhere at law must affect it everywhere. I am afraid some of us have simply failed to make the vital connection between what occurred in the prayer ban decisions and those aspects of the First Amendment which preoccupy us more immediately. Too many Catholics have simply failed to appreciate that any fundamental interpretation of the First Amendment by the Supreme Court must over a period of time operate in all areas of religion and public policy, including the area of government aid to nonpublic schools under religious auspices.

(3) Eleven of the 13 justices who passed on the New York prayer issue prior to its arrival at the Supreme Court ruled it constitutional. The attorney general of 19 states submitted a "friend of the court" brief to the Supreme Court, prior to the first decision, which said in part:

Our founding fathers, together with the great and God-fearing leaders of the last century and a half, would be profoundly shocked were they to have been told in their day that in this year of our Lord . . . a voluntary nondenominational acknowledgment of a Supreme Being and a petition for His blessings recited by American children in their classrooms is being seriously attacked as a violation of the Constitution of the United States.[6]

It was clear from Congressional reaction that a massive mail concurring with such judgments was hitting Capitol Hill. "King-size" was how Senator Dirksen described it. Resolutions endorsing what came to be called the Peoples Amendment for Public Prayer came from the National Conference of Governors, the National Conference of Mayors, legislatures of several states, the National Jaycees, the Veterans of Foreign Wars, the American Legion, and from such men as Billy Graham, Cardinal Cushing, the late Cardinal Spellman and Bishop Fulton Sheen. Sampling after sampling confirmed the will of the nation. The Gallup Poll in September 1963 recorded a three-to-one majority for reversing the court in its prayer decisions. In October 1964 the Harris Poll put the figure at 82 percent for amendment. Congressional home district polls backed the national sampling. Again and again there was no subject on which more of a congressman's constituents were united than on the need for a prayer amendment, and no subject in which "don't knows" ran lower, or majorities ran consistently higher. At each hearing on prayer amendment proposals, thousands of proamendment petitions were presented. About 40,000 petitions were introduced on the very first day of the House hearings (1964) by Congressman Fallon of Maryland. To the Senate hearings (1966), we introduced in behalf of amendment 35,000 petitions from Pennsylvania, 30,000 from New York and 50,000 from the Midwest. In the spring of 1967 Good Housekeeping magazine came up again with an 80-plus percentage for amendment.

(4) Despite all this, not one single normal floor vote has been held in five-and-a-half years in either house of Congress on even the technicality of proposing a prayer amendment to the nation. And hearings in this critical matter were forced in the House Judiciary Committee only after a discharge petition to bypass Chairman Emanuel Celler, who was bitterly negative, had nearly succeeded.

(5) In the wake of the prayer ban decisions, things have not stood still. A number of trends have developed. Two are of major importance. First, a trend toward a kind of fearful indecision on the part of public authority. School boards everywhere were from the start anxiously uncertain about whether and how religion was to survive in the public classroom. In some instances, boards have defied the court, but this is, patently, no solution to the problem. In a few instances, boards have tried to substitute various procedures, such as God sandwiches between Thoreau and Ben Franklin for morning assembly reading. These instances, however, remain so rare that each one is the subject of national notice. In most cases the net result has been one of the following: (a) to rule religion out entirely; (b) to emasculate religion before it is permitted in the school, thus reducing it to the merest art, history or literature; (c) to decide any particular question involving religion in the classroom in favor of parents who might conceivably object to it along lines indicated in the prayer ban record. Secondly, there has been a trend toward enlargement of the prayer ban to affect other practices of public reverence. Courts and some attorneys general have relied on prayer ban decisions to strike down kindergarten prayers and such substitutes as the singing of patriotic anthems. In the fall of 1966 the Supreme Court relied significantly on the decisions to knock out aid for church-related colleges in Maryland.

Meanwhile, it was again and again made clear by such opponents of religion in public life as Madalyn Murray O'Haire that the prayer ban would be used as a launching pad for further attacks on all surviving instances of public reverence. It is, of course, impossible, to predict with precision just how far the court will go toward accommodating these attacks, but its defenses against them must be seriously weakened by the majority reasoning in the prayer ban cases.

Of course, at the very base of the prayer amendment issue stands the issue of parental rights. There is no question that God belongs in the homes and the churches of America. There is no question that a serious re-examination of His presence there is imperative. But religion is not strengthened at the hearth and the sectarian altar by denying it entry to the public classroom. Religion is not strengthened in the heads and hearts of American youth by wiping it off their lips precisely where most of them prepare for citizenship in a reverent society. What is rather indicated is a joint activity, carefully respectful of the right of dissent, which involves church, home and school. In its 1951 Statement of Belief which recommended school prayer, the New York State Board of Regents said:

We believe that thus the school will fulfill its high function of supplementing the training of the home, even intensifying in the child that love for God, for parents and for home which is the mark of true character training and the sure guarantee of a country's welfare.

In its *Decree on Education* Vatican II underlined how the principle of subsidiarity applies in public education:

The Church gives high praise to those civil authorities and civil societies that show regard for the pluralistic character of modern society and take into account the right of religious liberty, by helping families in such a way that in all schools the education of their children can be carried out according to the moral and religious convictions of each family.

It is suggested by those who oppose a prayer amendment that the court banned only "prescribed" prayer and that other types of religious presence in the public classroom stand unaffected, indeed encouraged. There is at the very base of the court's decisions a fatal, secularizing equation. Once this equation has been repealed, there is certainly place for reexamination of the entire gamut of that presence. Various approaches to religion as a force for morality and civic strength can and should be tested. Citizens for Public Prayer fully support such testing, but at the right time. So long as the prayer ban remains, however, there can be no compromise. Generally, those who ask substitutes for the brotherhood of prayer call for a moment of silent meditation, classes in comparative religion or the rendition of God strictly in paintings, dates and poetry. Each substitution has its weakness. Collectively, they are totally inadequate to the need of the situation.

Let's take meditation first. It is most significant that the same day the Massachusetts legislature sanctioned meditation in the public schools of the state it petitioned Congress in support of a prayer amendment. A quiet God is better than no God. But a quiet God cannot provide that experience in pluralism which a spoken God encourages. One great advantage of the brotherhood of prayer consists, precisely, in the fact that through it children from various religious backgrounds are taught that although they go freely to their separate churches and synagogues over the weekend, still they can freely find and pronounce together common words of uniting reverence each day during the week. Besides, meditation is extremely difficult even for adults. To suppose that grade school youngsters can meditate properly is a delusion.

As for classes in comparative religion, it may be that once the prayer ban is repealed we can move along these lines. But such classes will require teachers who have the wisdom of Solomon, and are objective enough to relate one religion to another without bias. And should these teachers fail even slightly, offended parents will rise to challenge them in the courts, just as parents who objected to the earlier prayer did.

In regard to religion as art, history and literature, it is true that under these aspects it belongs in many classes, so that children of a reverent people may review their inheritance. But what a tragedy it would be if God could come into school only as a footnote in classes otherwise preoccupied and

Footnotes at end of article.

minus any factor of reverence whatsoever! Religion is more than dates and pretty pictures and nice phrases. Religion is reverence. Any proposal which drains it of its prayerful blood is anemic to start with. In short, none of the suggested substitutes is, at least in its present state of refinement, adequate. None would in any way remove the tragic precedent of the two prayer ban decisions. Finally, the closer any one of them came to being a real collective reverence, the more likely it is that it would be challenged and struck down by courts under the compulsion of prayer ban logic.

MAJORITY-MINORITY PROBLEM

There is another item in the prayer amendment debate which must be pondered. This is the item of majority-minority relationships in a democracy. It has two facets. The first is: How should society accommodate in its practices a majority will against which there is marshaled a loud minority will? The second is: In the public classroom how should the dissent from prayer and the desire for prayer be handled with justice all around?

In regard to the first question, it must at the outset be agreed that 50 percent plus one does not of itself make a thing right. Democracy must never be a matter of a bullheaded majority tyrannizing over a cowed minority. Neither must it ever be an oligarchy in which a miniscule elite, somehow wiser, forces its preference on an unwilling majority. This latter state becomes what *The Boston Pilot* has called a "tyranny of the few." One thing is clear: As in all such controversial situations, a dissenting minority must be assured to the maximum reasonable extent its right of silence and abstention. To permit a minority's preference to dominate public practice, however, thus denying to an overwhelming majority its will, is an intolerable travesty of democracy. In this case, a strong argument can be mounted in support of the traditional, pre-ban interpretation of the First Amendment. Even Justice Brennan, siding with the majority in the second prayer ban decision, concedes that its factual position is far from conclusive:

On our precise problem, the historical record is at best ambiguous, and statements can readily be found to support either side of the proposition.

But even if the court's reading of the history and the semantics were accurate, the case for a clarifying amendment would still stand. No people in a free society are required to be prisoners of words which, in that hypothesis, do not say what the people wish them to say and do not permit practices which the people overwhelmingly wish to provide for themselves and for their children. As in the flag salute situation what is required of a wise judiciary is not a decision rendering the majority silent before an intolerant minority but one that allows the greatest prudential accommodation for dissent while the majority will prevail. The second facet of majority-minority relationships here can be expressed in a question: Is school prayer an unconscionable intrusion on the rights of the dissenting child and his parents? It must be repeated that in the three prayer ban states, school prayer has been entirely voluntary for both teacher and pupil. Tolerance is, and must continue to be, a two-way street. So long as he is respected in his right to be different, the dissenting child must learn to respect the right of the majority of his fellow students who wish to pray together. Dean Griswold's treatment of this critical matter is excellent:

Must all refrain because one does not wish to join? . . . No compulsion is put upon him (i.e. the dissenting child). He need not participate. But he, too, has the opportunity to be tolerant. He allows the majority of the group to follow their own tradition, perhaps coming to understand and respect what they feel is significant to them. Is not this a useful and valuable and educational and, indeed, a spiritual experience for the children of what I have called the minority group?[7]

A related question is often posed. Whose prayer? The answer is simple. Once the civil right of public reverence is restored in the public school, the American people again will select, with a minimum of mistakes and a maximum of good common sense a reasonably nondenominational prayer. To suppose that any group of Americans with a sectarian majority would be so callous of its neighbors as to insist on a sectarian prayer in their public schools is to fly in the face of the great bulk of American experience. But even should, in rare instances, such a prayer be proposed, recourse for remedy would still be open with the courts. What is clearly urgent in this entire issue of majority-minority rights is a reasonable pluralism, the kind of adjustment and prudential accommodation which mature men make with their neighbors in any complex matter in which a common decision is required. With such a responsible pluralism, the solution to difficulties such as wording a proper amendment and coming up with consensus prayers is easy. Without it, we become quickly a jungle of selfish predatory religious groups, careless of neighbors and haggling over every approach to that harmony which has so long been the major motif of our people.

A few words of prayer by children in a public place will not alone change the world. The brotherhood of prayer remains an important part of an important pattern. Clearly, however, much more than this is at stake in the fight to write a Peoples Amendment for Public Prayer. The whole matter of a reasonable and, reasoned pluralism is involved here. So is the survival intact of all practices of public reverence. So is every other controversial aspect of church-state relationship. So, finally, is the very workability of the democracy itself. It is simply incredible that there are still Catholics concerned with democracy, education and pluralism who cannot, or will not, understand these things. John Donne wrote that "no man is an island." It can be said with equal force that no decision of the U.S. Supreme Court fundamentally interpreting the First Amendment against the expressed will of the nation is an island—a minimal, a singular thing. Remedial action now, loud and long, is emphatically indicated. Seldom has the alternative to such action been put more strongly than by Father Joseph Costanzo, S.J., professor of historical jurisprudence at Fordham University.[8]

American believers are losing by default. They have taken their spiritual heritage for granted. They have allowed a creeping gradualism of secularism, under one specious pretext or another, to take over their public schools. A vociferous and highly organized pressure group is exercising its own form of indirect coercive pressure upon the American community.

FOOTNOTES

[1] The New York Times, *July 7, 1963.*

[2] The Supreme Court and Public Prayer (*New York, 1964*), *p. 21.*

[3] *June 21, 1963,* The Boston Pilot *is the official publication of the Catholic Archdiocese of Boston.*

[4] *Columbus, Ohio, Sept. 16, 1859; Galesburg, Ill., Oct. 13, 1858.*

[5] *Griswold, Erwin N.* Utah Law Review, *Vol. 8, No. 3 (Summer 1963).*

[6] *United States Supreme Court, October term 1961,* Document No. 468.

[7] *Op. cit.*

[8] This Nation Under God (*New York, 1964*), *pp. 131–32.*

EXCERPTS OF A LETTER BY THE LUBAVITCHER RABBI, RABBI MENACHEM MENDEL SCHNEERSON

On the contrary, if there could have been any change at all (in my views), it was to reinforce my conviction of the vital need that the children in the public schools should be allowed to begin their day at school with the recitation of a *non-denominational* prayer, acknowledging the existence of a Creator and Master of the Universe, and our dependence upon Him. In my opinion, this acknowledgment is absolutely necessary in order to impress upon the minds of our growing-up generation that the world in which they live is not a jungle, where brute force, cunning and unbridled passion rule supreme, but that it has a Master Who is not an abstraction, but a personal G-d; that this Supreme Being takes a "personal interest: in the affairs of each and every individual, and to Him everyone is accountable for one's daily conduct".

Juvenile delinquency, the tragic symptom of the disillusionment, insecurity and confusion of the young generation, has not abated; rather the reverse is the case. Obviously, it is hard to believe that the police and law-enforcing agencies will succeed in deterring delinquency and crime, not to mention completely eliminating them at the *root,* even if there were enough police officers to keep an eye on every recalcitrant child. Besides, this would not be the right way to remedy the situation. The remedy lies in removing the cause, not in merely treating the symptoms. It will not suffice to tell the juvenile delinquent that crime does not pay, and that he will eventually land in jail (if he is not smart enough). Nor will he be particularly impressed if he is admonished that lawbreaking is an offense against society. It is necessary to engrave upon the child's mind the idea that any wrongdoing is an offense against the Divine authority and order.

At first glance this seems to be the essential function of a house of prayer and of the spiritual leaders. However, anyone who does not wish to delude himself about the facts of house of prayer attendance, both in regard to the number of worshippers and the frequency of their visits, etc., etc., must admit that shifting the responsibility to the house of prayer will not correct the situation. Nor can we wait until the house of prayer will attain its fitting place in our society, and in the life of our youth in particular, for the young generation will not wait with its growing-up process.

Children have to be "trained" from their earliest youth to be constantly aware of "the Eye that seeth and the Ear that heareth". We cannot leave it to the law-enforcing agencies to be the keepers of the ethics and morals of our young generation. The boy or girl who has embarked upon a course of truancy will not be intimidated by the policeman, teacher or parent, whom he or she thinks fair game to "outsmart". Furthermore, the crux of the problem lies in the success or failure of bringing up the children to an awareness of a Supreme Authority, Who is not only to be feared, but also loved. Under existing conditions in this country, a daily prayer in the public schools is for a vast number of boys and girls the only opportunity of cultivating such an awareness.

On the other hand, as I have emphasized on more than one occasion, only a strictly non-denominational prayer, and no other, should be introduced into the public schools. Any denominational prayer or religious exercise in the public schools must be resoluting opposed on various grounds, including also the fact that this would create divisiveness and ill-feeling. Likewise must Bible reading in the public schools be resoluting opposed for various reasons, including the obvious reason that the reading of Koran and the New Testament will arouse dissention and strife. Moreover, the essential objective is a religious expression that would cultivate reverence and love for G–d, and this can best be accomplished by prayer, while Bible reading is not so important in this instance.

1. It has been argued that the child at-

tending public school is in the category of a "captive", since his refusal to participate in a prayer would "stigmatize" him. His participation would therefore be involuntary and an encroachment on his freedom.

In my opinion, the notion of "captivity" as applied in this case should lead to a conclusion which is quite the reverse, for the following reasons:

The child attending public school knows that his attendance is compulsory, because his parents and the government consider his education of the utmost importance. Together with this comes the recognition that what is really important and essential to his education is taken care of in the school. The child's instinctive feeling and inference from this is that anything that is not included in the school curriculum is of secondary importance if, indeed, of any importance at all. Hence, if religion (prayer) is excluded from the school, the child would inevitably regard it in the same category as an extra foreign language, or dancing, or music lessons, which are not required by the school but are left to the parents' free choice, and which the child, not illogically, considers a burden or even a nuisance. In other words, the present system of the public school education is such that it impresses upon the pupil the belief that everything connected with religion, such as knowledge of G–d's existence, etc., is of little consequence, or of no importance whatever.

It will neither interest nor impress the child if he were told that the exclusion of prayer from the school is due to the principle of the separation of State and Church, or to a constitutional technicality. These reasons or explanations, even if they be actually conveyed to the child from time to time will not nearly impress him as much as the plain fact itself, which reaserts itself each and every day, that nothing can be very important to his education if it is not included in the school program. Such a situation can only reinforce the child's attitude of indifference, or even disdain, to any religious beliefs.

The above would be true even in the case of a child who comes from a religious home and background. How much more so in the case of children whose parents and homes are not permeated with the religious spirit, or where religion is something which is practiced once a week, on the day of rest, or only on holidays and special occasions. This, after all, is the kind of home from which the vast majority of the public school children come, inasmuch as the truly religious parents make every sacrifice in order to provide their children with the religious education and environment of a parochial school.

2. To oppose non-denominational prayer "on constitutional grounds" is, in my opinion, altogether a misunderstanding or misrepresentation of the problem.

The issue is: Whether a non-denominational prayer wherewith to inaugurate the school day is, or is not, in the best interests of the children. If the answer is "yes", then obviously it should be made constitutional, for there can be no difference of opinion as to the fact that the Constitution has been created to serve the people, not vice versa.

It may be pertinent to add here that the approach that the Constitution of the U.S.A. must not be touched or amended under any circumstances, is in itself a flagrant violation of the letter and spirit of the Constitution, which has its own built-in machinery for future amendments that may be required in the public interest; machinery which has been used in the past to incorporate into the Constitution a number of amendments.

3. It is argued that the principle of separation of Church and State is the only safeguard for freedom of religion, equal rights for minorities, etc.

Without going into the question whether there actually exists a strict separation between State and Church in this country (for there are undeniable facts to the contrary, e.g. the institution of Chaplaincy in the armed forces; the opening of Congress with a prayer; the motto "In G-d we trust" on American currency, the emphasis on Divine Providence in the Declaration of Independence; etc., etc.), I submit that the validity of the argument is contingent upon the question who is behind this principle, and how is it to be interpreted and applied? Suffice it to cite an illustration from the representative States now in existence, in one of which the said principle is in full operational force, while in the other it is not. In the first, as the daily press reports, there is a calculated war on religion and religious practices, with the suppression of all religious freedom, etc. Incidentally (and perhaps it is quite relevant to our discussion), it all started there with a ban on religious instruction to young children. In other countries, for example England, there is no separation of Church and State, there is religious instruction in the public schools, yet you find there complete religious freedom for all religious denominations.

4. Some argue further that the principle of separation of State and Church must be maintained at all costs, in order to prevent a resurgence of religious persecution so prevalent in the Middle Ages, when an established state-religion denied equal or any, rights to other religions, etc.

The fallacy of this argument should be quite obvious. By way of illustration: Suppose a person was ill at one time and doctors prescribed certain medication and treatment. Suppose that years later the same person became ill again, but with an entirely different, in fact quite contrary, malady. Would it be reasonable to recommend the same medication and treatment as formerly?

In Medieval times the world suffered from an "excess" of religious zeal and intolerance. In our day the world is suffering from an excessive indifference to religion, or even from a growing materialism and atheism. Even where religion is practiced, it often lacks depth and inspiration. (The subject is too painful to discuss in detail). Thus, if separation of Church and State was necessary, it is not at all the answer to the problems of our contemporary youth. Besides, the preservation of the principle is not at stake here, and the introduction of a non-denominational prayer in the public school will not endanger it in the least. Moreover a special clause to this effect can be included in the amendment.

5. It has also been argued that if a non-denominational prayer were permitted and left to the discretion of every school board in the country, this practice would lead to abuse.

I do not consider this a valid argument. Firstly, we are talking here about a strictly non-denominational prayer, and agreement should not be difficult on this point. Nor could there be room for any undercover abuse, since prayer would be recited openly in the school. Besides, a proviso could be made which would require the unanimous approval by the representatives of religious denominations before the particular non-denominational prayer is introduced into the school. Moreover, there is no need to compose new non-denominational prayers, as there are already such.

6. The argument that a short non-denominational prayer would have no effect on the child reciting it, could not be considered as a serious argument by anyone who has knowledge or experience in child education. On the contrary, the fact that prayer will be recited in the school and classroom, and day after day, will inevitably become an integral part of the child's thinking and is bound to be a factor which could be further cultivated to the child's advantage in terms of spiritual and psychological development.

Summarizing the above-said, my standpoint indicates the following course:

(a) All efforts, petitions, etc., should be brought to bear towards the introduction of a constitutional amendment which would permit the recitation of a strictly non-denominational prayer in all public schools.

(b) At the same time it should be clearly emphasized that any other kind of prayer or religious exercise, including Bible reading, is not desirable in the public schools because of the friction and divisiveness which such a practice would inevitably entail. It would surely be detrimental to introduce an amendment which would do just that.

(c) I am gratified to see that there are representatives in Congress who expressed their support for an amendment that would permit a non-denominational prayer in the public schools, while opposing sectarian prayer and Bible reading.

(d) The whole controversy as to the constitutionality of such a non-denominational prayer is of little, if any consequence to the problem itself. The crucial problem is how to build the ethical and moral fibre of the young generation which is educated in the public school system: Is the American child to grow up under an educational system which excludes all mention of the Divine Name, so that he (or she) will inevitably regard the world around him (or her) as a Godless jungle; or is he (or she) to be encouraged to think that there is a Supreme Being, the Creator and Master of the World. Who ordains justice and liberty for all, and Who is the source of true blessing.

Certainly a non-denominational prayer in the public schools will not, in itself, provide an adequate basis for the right and complete world-outlook, but it is an indispensable first step in this direction, considering the state of our society as it is at present, and as it is likely to remain for quite a long time, insofar as it can be judged from the prevailing conditions and factors.

H.J. RES. 191

Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States within seven years from the date of its submission to the States by the Congress.

THE CORNELL AIR WAR STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, the Center of International Studies of Cornell University today released a report that reveals that, despite President Nixon's Vietnamization policy, the air war over Indochina continues at a terribly destructive pace.

Unlike the Pentagon papers, which are a discussion of policy and debate within an administration, the Cornell air war

study is an inventory and collection of all the relevant data related to the air war over Indochina. The report is a clear and scholarly analysis of the air war. In order to maintain their scholarly objectivity the Cornell professors have stuck to the facts. But, Mr. Speaker, the facts are shocking.

The report indicates that each year the United States drops as many bombs on Indochina as were dropped during the entire Second World War in all theaters. According to the study, by the end of this year, the Nixon administration will have dropped more bombs on Indochina than the two previous administrations combined. The Nixon administration has dropped as many bombs over Indochina in 3 years as the Johnson administration did in 4.

I

The Cornell air war study, besides placing the blame for the bulk of the bombing on the Nixon administration, also reached a series of general conclusions that I wish to call to the attention of my colleagues.

First and most important, is the failure of the massive and often indiscriminate use of air power to achieve our military and political goals in Indochina. The use of massive air power in fighting a guerrilla war is inefficient and results in a tremendous loss of civilian lives. It has not affected the will of the North Vietnamese and Vietcong to fight. The air war has cost this country $25 billion and has resulted in an estimated $50 billion of damage in Indochina. The capital intensive mode of warfare as employed by the United States is a mismatched technological giant unable to counter the activity of determined guerrillas.

The second general conclusion that the Cornell air war study has reached is that America's basic policy in Indochina remains unchanged. Our goal is to retain a friendly regime in South Vietnam. With the Vietnamization program the focus of our war effort has shifted from the ground to 5,000 feet above Indochina. Despite the clear-cut failure of American airpower in the past, the United States has become more and more dependent on the use of airpower.

The United States, according to the report, has closed out its options. If there is a major offensive on the part of the Vietcong or the North Vietnamese, the Cornell group says that the United States will only be able to counter the Communist offensive with a massive reescalation of the air war.

The net result of our use of massive air power is a political situation in Indochina where three nations—South Vietnam, Laos, and Cambodia—are almost totally dependent on the United States for political, military, and economic support.

II

The Cornell air war study also indicates that the present administration has pursued a policy of deception in its conduct of the air war. The report elucidates three examples of the administration's deceptive public relations policy. First, the administration, while it claimed that it was conducting reconnaissance flights, actually dropped 200,000 tons of bombs on Laos. Second, the administration denied that there were B–52 raids over Laos that were actually occurring. Third, the administration refused to acknowledge that the United States was flying close support for Cambodian troops in 1970.

In addition to past deceptions, the group of nine professors who authored the report, also indicated that the administration has attempted to downplay the intensity of the air war. With occasional troop withdrawals the American people are lulled into the belief that the war is grinding down. The air war is not grinding down, as indicated by the Cornell report. Rather deescalation has occurred very gradually in the whole of Indochina and the air war has actually recently escalated in Laos and Cambodia.

III

The air war study investigated in detail the air war over North Vietnam. The report indicated that North Vietnam suffered $500 million of damage in the air war. The total gross national product of that country is only $2 billion. The air war resulted in 100,000 casualties, 80 percent of whom were civilians. Yet despite these massive attacks, the Cornell report reveals that American bombing did not impair the ability of the North Vietnamese to conduct the war. If anything, the heavy bombing bolstered the morale of the soldiers and people of North Vietnam.

The report also charges that between 75 and 90 percent of the air raids over North Vietnam were "armed reconnaissance." In an armed reconnaissance raid, pilots are not given any prebriefed targets. Rather, they seek "targets of opportunity" to attack. The report concludes that this type of bombing results in a useless loss of life and property. It is very difficult indeed to choose appropriate military targets flying hundreds of miles an hour.

The report further charges that the number of "protective reaction raids" has been steadily increasing in the last few months. The attacks, according to one member of the group, are conducted whenever the North Vietnamese or Vietcong mass troops. On November 2, a U.S. Navy jet ventured 105 miles inside Vietnam to attack a battery that had fired missiles at his plane that was over Laos. It was the 70th raid into North Vietnam this year.

IV

The study also deals in detail with the air war over South Vietnam. A total of 3.6 million tons of bombs have been dropped on South Vietnam. In 1971 alone, the report estimated, that 200,000 tons of bombs will fall on South Vietnam. This 1971 pace over South Vietnam equals the worst year of the air war over North Vietnam. Yet, as the report points out, we are supposed to be defending South Vietnam.

The air war in South Vietnam has resulted in an estimated 1 million casualties and 325,000 deaths. A 30-year supply of hardwood timber has been destroyed and one-third of the forest areas have been defoliated.

The study also reveals that only 5 to 8 percent of the air raids conducted have been for the direct support of American or allied troops. This is the type of raid that can assist American units in a combat situation.

As the Vietnamization program continues and the South Vietnamese take over more of the air war, the United States has concentrated its efforts on saturation bombing with B–52 stratofortresses. The typical B–52 raid consists of six planes that, in a matter of seconds, drops 300,000 pounds of explosives leveling an area equivalent to 200 city blocks. To be more graphic, Mr. Speaker, according to the authors of the report, a B–52 raid would level an area reaching from the Capitol to the Lincoln Memorial, in 10 seconds.

V

No major deescalation of the air war has occurred over Laos or Cambodia. The major escalation of the bombing over Laos commenced in 1969 and in Cambodia in 1970.

The bombing of northern Laos alone in 1969, was as intense as the bombing over North Vietnam as its peak. When the bombing was halted over North Vietnam the American planes began to attack targets over Laos at a rate that equalled the sorti raid over North Vietnam. Despite all of our efforts in Laos, today the Path Lao controls more territory than ever before.

Although there has been a scaling down of bombing in all of Indochina, the escalation in Cambodia that began in 1970 continues unabated. The bulk of our air attacks in that country are considered harassment and interdiction with occasional close support raids.

VI

Mr. Speaker, a serious reading of this carefully prepared report is to me an indictment of the policy of this administration. American air power has failed, yet we rely on it more than ever before. Despite our past failures, our goal of a friendly regime in Saigon has not altered. This report summarizes the facts of an air war that continues at an awful pace with unnecessary human suffering. I enthusiastically recommend it to my colleagues for their careful study.

CONGRESSMAN JOSEPH P. ADDABBO REPORTS ON 92D CONGRESS, FIRST SESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, each year year since first being elected to the House of Representatives in 1960 I have summarized the activities of the Congress, reprinted it from the CONGRESSIONAL RECORD at my expense and mailed it to my constituents. I hope that this report will be informative and will encourage my constituents to send me their views on the important issues facing the Congress and the Nation.

In addition to my annual report to the 7th Congressional District, I also mail a questionnaire to each household. A questionnaire will again be sent early next year. The responses which I receive following these mailings help me in representing the people who live in my district and in deciding how to vote on var-

ious measures in the House of Representatives.

While Congress may not finally adjourn until Christmas this year, I can report on the following major areas of legislative activity during 1971.

FOREIGN POLICY

Unfortunately the top item in the field of foreign policy remains our role in Vietnam and Indochina. As the war continues the Congress has become more responsive to the frustrations and concerns of the American people over prolonged involvement of U.S. troops. I have joined with an ever increasing number of House Members in sponsoring, supporting and voting for amendments and resolutions requiring the withdrawal of all U.S. forces—both combat and advisory—within 6 months conditioned upon release of U.S. prisoners of war—the Mansfield amendment. I will continue to support similar steps to encourage and persuade the President to move more quickly in connection with the phased withdrawal of our forces from all Indochina.

The Middle East remains a serious threat to world peace and any change in the balance of military power in that region is of great concern to our Nation. I have sponsored a number of bills calling for action by the President to maintain military arms strengths in the Middle East and urging the President to act favorably on requests by Israel for shipment of F–4 jet aircraft needed by that nation in defense of its borders.

If the dangers of new wars are to be controlled we must improve communications with other world powers, particularly the Soviet Union and China. For these reasons I support the actions of the administration in this area. While I was shocked and in complete disagreement with the action of the United Nations in rejecting our two China policy I believe we must work harder to change the nature of the U.N. and bring about a reassessment of its potential as a peace keeping force. I would also suggest greater efforts to encourage the United Nations to define basic human rights under international law such as the freedom to leave a nation—a freedom now denied the Jews living in the Soviet Union.

THE ECONOMY

The severity of the economic situation was finally recognized by the President in August when he announced the 90-day wage-price freeze which has now been replaced by the phase II program of economic controls. Many Members of the Congress had called for economic controls a year before that first reaction by the administration but there are differences in approach which still concern me.

I had proposed an across-the-board tax cut of 5 percent, giving business and individual taxpayers identical relief but the administration's tax proposals do not contain significant consumer tax reductions. In addition, I favor much more activity in the area of job development through public works programs and public works programs and public service employment. This is particularly important in light of the large numbers of returning Vietnam veterans as well as the reductions in defense spending. We still need an economic plan to assure an orderly conversion from a wartime to a peacetime economy. The Congress will be watching this situation very closely during the months ahead.

ENVIRONMENTAL LEGISLATION

The Gateway National Recreation Area legislation which I have sponsored for the past several years continues to gain strength in the Congress. Passed by the Senate this year I am hopeful that the House will act favorably in 1972 making this master plan for the protection of more than 20,000 acres of land and water a reality. The unique recreational resources of Jamacia Bay will be included in this legislation to preserve the area at the entrance to New York Harbor.

I have included an amendment in my bill to prohibit airport expansion in the federally protected area in order to stop once and for all proposals to extend runways at Kennedy International Airport. This must be a bill with clear and meaningful environmental guidelines so that the ecological balance of this area will not be disturbed.

In 1971 I also called for new Federal efforts to reduce aircraft noise by supporting legislation to require retrofit program on existing aircraft, I have called for the resignation of the head of the Federal Aviation Administration because of the failure of the FAA to use its powers to regulate aircraft noise and pollution. The 1968 Aircraft Noise Abatement Act which I sponsored gives adequate power to the FAA but administration of that law has been slow and anything but vigorous. I am particularly pleased to report that any amendment to the Transportation Department's appropriation bill requiring that $4.5 million be earmarked for aircraft noise and pollution research was passed by the Congress. I will continue to prod the FAA and call for new efforts along these lines.

APPROPRIATION COMMITTEE

As a member of the House Appropriations Committee I have been able to voice my feelings about the need to redirect Federal revenues to areas of high priority. I have consistently supported increased appropriations for spending in the areas of education, health, job development and those domestic programs designated to attack the root causes of social unrest and poverty. A table showing House action on various appropriation bills is printed below.

EDUCATION

The Higher Education Act of 1971 passed by the House would assist the Nation's colleges and universities meet their increasing costs while at the same time broadening loan programs for students. I supported this legislation because of my conviction that we must make a real effort to provide every student with full educational opportunity regardless of financial ability to pay for the ever-escalating costs of that education. In addition, I favor the passage of some form of tax credit based upon income for the costs of college tuition.

VOTING AGE REDUCTION

Early in 1971 the Congress made history by passing a proposed amendment to the Constitution, since ratified by three-fourths of the States, lowering the voting age for all elections to 18. Approximately 11 million young people have now been given the right to participate in our election process and we must now encourage them to exercise that franchise.

HEALTH

A number of important health measures were passed by Congress including legislation to induce medical schools to graduate additional physicians and to increase the number of doctors, nurses and other health professionals practicing in rural and other shortage areas. A bill to provide for a concentrated attack on cancer is now being drafted by a House Committee following Senate adoption of similar legislation.

The subject of a national health insurance system for all Americans is now being considered by the House Ways and Means Committee and a House vote on this issue is expected next year. I will support legislation to help finance the high cost of health care and to assure that no American will have to fear the catastrophic costs of prolonged illness.

DRUG ABUSE

The problem of drug abuse throughout our Nation has reached crisis proportions and the Congress must and I believe will take positive steps to mobilize the education, research, and treatment resources to deal with this threat to our society. A special program to broaden eligibility for drug treatment programs for returning Vietnam veterans has been passed by the House and I believe more will be done to help our communities meet the needs of those who are addicted.

As a member of the Defense Appropriations Subcommittee I was able to conduct hearings on this most urgent problem. I have also sponsored and supported legislation to attack the drug problem at the source by curbing foreign aid to those countries which do not cooperate with us in stopping the illegal distribution and importing of heroin and other hard drugs. We must make a firm commitment to use every available weapon against the persons who are involved in drug traffic and we must act very quickly.

OIL PRICES

During this year I have called for several new programs to reduce the rising prices of oil and bring relief to our small businessmen and homeowners who must meet those rising costs. Among those proposals were the elimination of the present oil import quota system and the creation of a national defense petroleum reserve to assure adequate oil production capacity at home. Most recently I asked the President's Price Commission under phase II of the Economic Control program to investigate increased oil prices and to consider ordering a rollback in those prices raised during the price freeze period.

SUBCOMMITTEE CHAIRMAN

It was a high honor to be appointed a subcommittee chairman on the House Select Committee on Small Business earlier this year. I am very proud of my appointment and believe I can better meet

the needs of my constituents in this new position.

As subcommittee chairman I was able to hold hearings this year on a number of problems facing our small businesses. In addition, I again sponsored a special procurement conference in Jamaica to acquaint our local businessmen with opportunities to bid on Federal contracts and on projects subcontracted by Federal Government prime contractors. Previous conferences have resulted in several million dollars in additional awards being made to our Seventh Congressional District. The Jamaica Chamber of Commerce cosponsored the conference and a number of Federal officials participated in the meeting.

MY WASHINGTON AND NEW YORK OFFICES

During my six terms as the Representative of the Seventh Congressional District, I have tried to make myself available to constituents who have problems involving Federal departments and agencies. In addition to my continuous weekend appearances in my district at meetings and functions of various civic, fraternal, veterans and religious organizations, I maintain a full-time district office, and my Washington office is always ready to assist my constituents.

Please write or call me at room 2440 Rayburn House Office Building, Washington, D.C., 20515 or at 96–11 101st Avenue, Ozone Park, N.Y., 11416.

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 92D CONG., 1ST SESS., AS OF OCT. 27, 1971

[Does not include any back-door" type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year	House actions			Senate actions			(+) or (−), latest action compared with budget requests
	Budget requests considered	Reported by committee	Approved by House	Budget requests considered	Approved by Senate	Enacted	
A. Bills for fiscal 1972:							
1. Education (H.R. 7016)	$5,068,343,000	$4,769,508,000	$4,800,088,000	$5,153,186,000	$5,615,198,000	$5,146,311,000	[2] −$6,875,000
2. Legislative (H.R. 8825)	455,744,595	449,739,605	449,899,605	535,349,607	532,297,749	529,309,479	−6,039,858
3. Agriculture—Environmental and Consumer Protection (H.R. 9270)	12,104,813,850	12,080,596,050	12,423,896,050	12,104,813,850	13,621,677,050	13,276,900,000	+1,172,086,200
4. State — Justice — Commerce — Judiciary (H.R. 9272)	4,204,997,000	4,036,898,000	[4] 3,684,183,000	4,216,802,000	4,089,083,000	4,007,116,000	−149,686,000
5. Treasury—Postal Service—General Government (H.R. 9271)	4,780,576,000	4,487,289,000	4,487,676,190	4,809,216,000	4,752,789,690	4,528,986,690	−280,229,310
6. Interior (H.R. 9417)	2,164,596,035	2,159,508,035	2,159,508,035	2,194,594,035	2,226,023,035	2,223,980,035	+29,386,000
7. HUD—Space—Science—Veterans (H.R. 9382)	17,457,017,000	18,108,203,000	18,115,203,000	17,457,017,000	18,698,518,000	18,339,738,000	[5] +882,721,000
8. Transportation (H.R. 9667)	[5] 3,007,550,997	2,732,169,997	[6] 2,733,369,997	2,860,327,997	[5] 2,958,929,997	2,905,310,997	+44,983,000
Fiscal year 1972 amounts only	(2,833,229,997)	(2,557,848,997)	[6] (2,559,048,997)	(2,686,006,997)	[6] (2,784,608,997)	(2,730,989,997)	(+44,983,000)
9. Labor—HEW (H.R. 10061)	19,942,996,000	20,264,746,000	20,361,247,000	20,123,637,000	21,018,317,000	20,704,662,000	+581,025,000
10. Public Works—AEC (H.R 10090)	4,615,945,000	4,576,148,000	4,576,173,000	4,616,082,000	4,716,922,000	4,675,125,000	+59,043,000
11. Military construction (H.R. 11481)	2,129,805,000	2,012,446,000	2,012,446,000				−117,359,000
12. Emergency Employment Assistance (H.J. Res. 833)	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	
13. Summer feeding programs for children (H.J. Res. 744)			17,000,000		17,000,000	17,000,000	+17,000,000
14. Federal unemployment benefits and allowances (H.J. Res. 915)	270,500,000	270,500,000	270,500,000	270,500,000	270,500,000	270,500,000	
Total, bills for fiscal 1972	17,202,857,477	76,947,751,687	77,091,189,877	75,341,525,489	79,526,975,521	77,684,939,521	[7] +2,226,055,032
B. Bills for fiscal 1971:							
1. Supplemental, Department of Labor (H.J. Res. 465)	50,675,000	50,675,000	50,675,000	50,675,000	50,675,000	50,675,000	
2. Continuing resolution (Transportation) (H.J. Res. 468)	(8)	(8)	[8] −55,000,000	(8)	[8] −55,000,000	[8] −55,000,000	[8] −55,000,000
3. Urgent Supplemental (H.J. Res. 567)	1,042,294,000	1,037,872,000	1,037,872,000	1,042,294,000	1,037,872,000	1,037,872,000	−4,422,000
4. 2d Supplemental (H.R. 8190)	[9] 7,746,078,149	[9] 6,881,152,545	[9] 6,889,152,545	[9] 7,879,740,077	[9] 7,285,468,973	[9] 7,028,195,973	−851,544,104
Total, bills for fiscal 1971	8,839,047,149	7,969,699,545	7,922,699,545	8,972,709,077	8,319,015,973	8,061,742,973	−910,966,014
C. Total for the session	86,041,904,626	84,917,451,232	85,013,889,422	84,314,234,566	87,845,991,494	85,746,628,494	+1,315,088,928

[1] The Budget for 1972, as submitted Jan. 29, tentatively estimated total new budget authority for 1972 at $267,437,000,000 gross ($248,965,000,000 net of some $18,472,000,000 interfund and intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget summary purposes only). Of this total, an estmiated $97,946,000,000 does not require current action by Congress; it involves so-called permanent appropriations such as interest, various trust funds, etc. already provided for in various basic laws. The remainder, $169,491,000,000 is for consideration at this session (mostly in the appropriation bills). About $17,200,000,000 of the $165,500,000,000 was shown in the January budget as being "for later transmittal" for new or expanded legislation, pay increases, and contingencies, and about $38,114,000,000 of the remainder requires legislative reauthorization through various annual authorization bills or where the authorization expires periodically

[2] As passed by both House and Senate, the Education appropriation bill did not include $400,000,000 requested in the budget for purchase of student loan notes from colleges and universities, contingent upon legislative authority not yet enacted. If the $400,000,000 is excluded from all of the figures shown, the amount n the House approved bill is in effect a net increase of $131,745,000 over the budget requests considered by the House; the Senate approved bill on the same basis as $862,732,000 over the budget requests considered by the Senate; and the enacted bill on the same basis is $393,125,000 over the budget requests considered.

[3] There was $1,000,000,000 in the budget as a proposed supplemental for special revenue sharing, or one-half year funding in certain housing and urban development programs. Taking into account that $850,000,000 of that amount was for the HUD-Space-Science-Veterans bill, the House bill is $191,814,000 below the budget requests; the Senate bill is $391,501,000 above the requests; and the enacted figure is $32,721,000 above the requests. Taking into account the remaining $150,000,000 of the proposed supplemental which was for the Agriculture-Environmental and Consumer Protection bill, the House bill is $169,082,200 above the budget requests; the Senate bill is $1,366,863,200 above the requests; and the enacted figure is $1,022,086,200 above the requests.

[4] Excludes $352,715,000 because all maritime programs and one judiciary item were struck by House floor points of order.

[5] Includes $235,000,000 related to prior decision to terminate the SST (which, however, was revised downward in budget requests considered by Senate).

[6] House bill does not include $248,000,000 floor addition to "Federal Payment to Airport and Airway Trust Fund" since, technically, it is not new budget authority until appropriated out of the trust fund. Senate bill adds another $219,800,000 to this "Federal payment" account: conference report adds $239,000,000 to the budget for this "Federal payment."

[7] Considering footnotes [2] and [3] ($400,000,000 for the purchase of student loan notes from colleges, and universities and $1,000,000,000 for the proposed supplemental for special revenue sharing), the House bills are $711,667,600 below the budget requests; the Senate bills are $3,585,450,032 above the requests; and the enacted figure is $1,743,414,032 above the requests.

[8] The budget requests for fiscal 1971, as reflected in the 1971 transportation appropriation bill considered by the Congress during the 2d session, 91st Congress of, $2,553,816,437, were reduced by $95,681,832 by actions of Congress during the 2d session, 91st Congress. The amount carried in the fiscal 1972 budget for the 1971 transportation appropriation bill reflected such reductions. It is estimated that congressional action at the current session on 1971 appropriations for the Department of Transportation (killing the SST in H.J. Res. 468) further reduced the amount available for fiscal 1971 by $55,000,000.

[9] Includes advance appropriations of $100,000,000 for 1972 for cancer research.

Prepared October 27, 1971, in the House Committee on Appropriations.

SUPREME COURT NOMINEE POWELL AND BERRIGANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. ANDERSON) is recognized for 20 minutes.

Mr. ANDERSON of Tennessee. Mr. Speaker, this past Wednesday the New York Times reprinted an article by Supreme Court nominee, Lewis F. Powell, under the caption, "America Is Not a Repressive Society." This article, I understand, was written for the August 1 edition of The Times Dispatch of Richmond and was further distributed as part of the October FBI Law Enforcement Bulletin.

Mr. Powell professes considerable dedication to fact by saying, "But the truth rarely overtakes falsehood—especially when the latter is disseminated by prestigious newspapers"—not only dedication to fact, but heroic dedication to the Vice President's most ardent cause.

As long as we are dedicating ourselves to truth, we might as well go the full course.

In the article, Mr. Powell states,

The Berrigans, one of whom stands convicted of destroying draft records, are charged with plots to bomb and kidnap.

The facts are that not one Berrigan, but two, both Daniel and Philip, stand convicted of destroying draft records and are now serving sentences at Danbury, Conn.; and not two Berrigans, but one, Philip, is a defendant in the so-called Harrisburg conspiracy case. Daniel Berrigan has never been a defendant in this case, except by proclamation of FBI Director Hoover last November.

In the original indictment handed

down last January, Daniel Berrigan was not charged, rather he was named a "co-conspirator." In the subsequent indictment handed down last spring, Father Daniel Berrigan was dropped completely out of the case. Supreme Court nominee Powell deserves to have this matter clarified for him. Thus, I include in the RECORD a copy of a letter written by Father Daniel Berigan to Mr. J. Edgar Hoover, which accomplishes that better than I can.

DANBURY, CONN.,
May 16, 1971.

DEAR MR. HOOVER: The removal of my name from the Federal indictments in the Harrisburg case affords me the opportunity to address you. Such an opportunity could not be said to exist while I lay under the jeopardy of the law, as announced by yourself last November. So I hasten to write you while I enjoy the status of a disinterested party.

I ask you to recall, lest the above sound ironic, the "progress" of my case. According to your November announcement I was a ringleader in a spectacular plot. Then at a later date, I was shunted to the outer circle of guilt; my status was reduced to that of "unindicted conspirator". Finally I was purged of that nebulous criminality. I was declared, out of court, not so much an innocent person, as a non-person, with respect to this case.

But this letter, with all respect, concerns yourself as well as me. You are much in the news these days. In a sense, and with no intemperate irony, it seems that our roles have been strangely reversed. A year ago I was the object of a purposeful manhunt by your agents. The hunt was concluded successfully; I was delivered into custody. Now, the national media, political officeholders, even certain highly placed agents of your household, declare or imply that your public usefulness has ended. The defense offered by your superiors and colleagues is tepid; your removal from office is regarded in many circles as an event urgently required, as some say, "for the welfare of the Bureau"; or others, "for the welfare of the nation".

Thus our present situation, yours and mine. It may be fitting before I continue, to outline what I do *not* intend to discuss in this letter.

1) I will not needle or prod you in a spirit of revenge. Indeed I have a serious quarrel with your misuse of authority, your intemperate and illegal "revelations" of last November. But, luckily, for me, your accusations have not stood. Their untruth is evident, and I am content.

2) Neither does this letter announce a suit against you for defamation of character. Such an action holds no appeal for me. My honor depends on no settlement from you.

3) Nor do I wish to enter into your motives of last November, or of any other occasion. Whether vindictiveness, pique or outraged ego have governed your attitudes toward myself and others (many of them respected public figures) is not mine to conclude. In the final analysis this matter rests between your conscience and God.

When these matters are put aside, I believe the ground is cleared for fruitful discussion. I would like to believe that the spirit of nonviolence may govern your pen and mine. Further, that this same spirit may create its own ground rules and style: no hidden plays, no invisible writing, no subtle or sweet revenge.

Rather, fidelity on both sides to the saying of St. Ignatius, "That the truth might appear." A truth that neither of us is in possession of, but that might be granted us because each is open to its demands.

Perhaps, in this spirit, we can (in a manner of speaking) destroy those "files" which opponents are tempted to accumulate against one another. Let us keep no memory bank of one another's delicts or sins. I would like simply to share with you certain experiences, views of life, impressions of America and of American prisons. I would like to reflect on your role and mine in society, on conscience, on religious tradition, on war and peace, on crime and punishment. On these subjects and whatever others you may wish to pursue.

A persistent suggestion was made to me during the past days, that I should urge you in this letter, to resign from office as soon as may be convenient. I rejected this counsel with only small hesitation; it seemed to me both inappropriate in principle and dubious in value. By what right should I intervene in such a matter, especially when I am convinced that your replacement would offer no solution to the problems which bedevil us? Indeed if 51% of Americans believe that you should be replaced in office, it is not because they object in principle to spies, provocateurs, defamation of character, or trials through public media. It would be difficult to discover indeed whether Americans judged you had gone too far, or not far enough, in these matters.

It is of small interest to me therefore whether you choose to continue in office or not. In such offices as yours, replacements are at hand; qualities of inflexibility, sternness, moral conformity, so permeate the national character as to throw up, with regularity, men who will do honor to such offices.

What the nature of that office has become under your guiding genius, continues to intrigue many. It even offers me a kind of chilling comfort to reflect that being a prisoner in America today in a way of anticipating the America of, say, 1984. You and others are even now creating that America. In prison, our civil and human rights are curtailed or suspended. Our mail is censored, public speech is cut off, access to family and friends is restricted, dissent summarily (some would say brutally) dealt with. We prisoners are in fact (I am a veritable Quixote in pursuit of positive thinking) the subject of an important paramedical experiment. We today, America tomorrow! Authorities are persuaded that the amputation of human rights is of benefit to delinquents; so they proceed to put saw and ax to the body social. Better a healthy basket case than a sound troublemaker! Or again, if a delinquent is rehabilitated by cutting back his manhood, can not society be reformed by a like radical surgery? Crutches and prosthetics will then be no embarrassment to anyone; a gimp will join a limping society. Dissent will be a dim memory of early heroes and their happenings, but America will have created her final revolution against all revolution, including her own.

I do believe this process is already underway. By, say 1984, the ineffable benefits of my present existence ought to be available by law, to all Americans. That is to say, their social intercourse will be monitored, their speech tapped, their access to family and friends controlled, their urges toward dissent summarily (some would say brutally) dealt with.

Undoubtedly a larger talent is required to get such machinery in motion, than to fall under its gears. Not talent alone, but organization, moneys, charrismatic purpose, morality. My congratulations. You can at present point to all sorts of evidence that the machine is in motion and functioning to satisfaction. One has only to think of the army of trained agents (many of them religiously afire), of access to Congress, to the President, to the media. As for me, I have fallen under your gears. I am officially reduced to silence and can address you only under the legal fiction of a court action. I am moreover smeared with the large brush you wielded last November. Alas for me, no American brush cleans quite so well as it dirties—a fact well known to yourself. Removal of charges does not leave one untarred. The mark you traced against my name remains a "yes, but . . ." a question mark. Bravo for you.

I am thus a specific instance of a general trend, an American trend for which credit within measure must be given to you. Let me try to define the trend. It moves our country in a single direction toward the death of freedom, which is to say the death of man as we have known him and nurtured him, the death of America. Of the reality of this trend, I am one example, that of criminal, of its success. You are an articulate witness.

But let us be exact. Large as your role has been in creating the first stages of the New America, still your part has about it a certain necessary modesty. One must admit if you had not been available to the America of our century, American genius would have created someone like you. Not so skillful or single-minded perhaps, not gifted with that longevity which has enabled you for so many years to be warden and spokesman for the conscience, the fears, and hopes of a turbulent and tortured nation.

You are, not, in other words, to be confused with the direction America has chosen. But you have sensed the direction, have legitimatized it, bestowed on it the sacrosanct name of law and order, won for it the blessing of the churches. The nation called you, and you responded—with nearly heroic constancy. Political troublemakers, the angry and disenchanted, the clairvoyant and deviant—these you unmasked, punished, put away.

By such crusades, so the reasoning went, Americans might become at length the people they so fervently longed to be—a people of innocence, of conscience, of benevolence.

One would not be so blind as to deny your crusades in peculiarly American terms have produced "results". You were able to announce, year after year, a rising tide of crime, and to confront it. You and the Bureau stood at the open end of a stinking cornucopia, as the "criminals" poured out. You were empowered not only to seize on them and bring them to justice, but to help America define their crimes as well. Crimes against the sound dollar, against General Motors, against laissez faire, against national security, against NATO and SEATO, against war, against racism. The crime, in many instances, of defining or aiding or abetting or conspiring toward a vision of man that was in conflict with yours, and therefore in conflict with America. And therefore criminal.

You have grown in that effort, and I am in prison, and we are not yet the people we long to become. In fact, you and I for vastly different reasons, might agree somberly that America is further than ever from realizing that vision. The people are distempered, ridden with fear, distrustful of one another, itchy to take and to inflict blows. Their faces reassure neither themselves nor the world; God fearing and bellicose, spartan and self-indulgent, puritanical and prurient. Alas, some would claim that the immaculate purity of the goal is all but lost in the welter of impure means. Among which means some would suggest must be numbered Vietnam, Kent State, informers, misuse of grand juries.

This impurity besetting the nation and besetting its soul is, let me confess, the clue to my peculiar pride. I believe that the means and the goal must be one. So, in America, in 1971, I had rather be a prisoner on my own terms, than a President on yours.

This summer I will have completed a year of my prison term. I will appear before a parole board to give evidence of my rehabilitation. I should like you to be the first to know that I am indeed rehabilitated. This year I have counseled and befriended young prisoners, helped conduct classes in such books as "St. Matthews Gospel", Gandhi's "Autobiography", "Gulliver's Travels", Erikson's "Young Luther". I have worked in the

prison dental clinic, meditated on my crime and punishment, celebrated mass; in every way I know I have lived according to the best urgings of my soul. Thus my 50th year has come and gone in the urgent effort to habilitate my life to the tempo and hope of humanity.

I have no hope at all that this program will be found satisfactory to my keepers. In every likelihood, I will be informed that my prison term is to be extended to the maximum. The decision I accept in advance; it is predictable, and in the logic of present day America, right and just. I have not, after all, murdered children under military orders, nor tortured prisoners nor napalmed women, nor laid waste a foreign culture.

My crime in comparison with such incidents of war is plenary; I have burned papers instead of children. Let us rejoice that justice can distinguish criminal priests from military heroes.

You will pardon me if a vexing question sticks in my mind. It concerns you. You have publicly accused me of plotting crimes against humans and property; your accusation denied me a hearing or a trial. How, I ask myself, does American justice apply in your case?

The answer is a simple one. Justice does not apply. The bold assurance with which you spoke against me is proof that you gathered nine points of the law to yourself. Your conduct of November last declared more forcibly than words the truth of the matter; there exist summits of authority at which the law is irrelevant. And indeed your assumption is correct. Our judge conceded as much during the Catonsville trial. He granted that no American President could be summoned to his court on charges of waging a war in violation of the Constitution. You stand, evidently, in the aura of that same exalted immunity.

Still, I think, in the errant way of a prisoner, such an arrangement should not go unchallenged. The law of the land must apply in principle to every citizen; otherwise the law is void in principle, and guilt becomes a matter of the spleen or caprice of those in power. No; if a priest is answerable before the law, so must a President be, or the chief of the F.B.I.

Therefore, it occurs to me that you are guilty of a serious offense against the law and that I should invite you to undergo a period of rehabilitation, even as I am undergoing it. My reflections proceed carefully, and I hope with compassion. You are an old man, aged as several prisoners here, who languish and mourn at Danbury, while health and spirit fail them. I would not have you condemned to the fate to which you (and others) have consigned them—not even in my own mind.

Other alternatives occurred to me. Perhaps you should be invited to pass a period of time living among black Americans. You held their martyred leader, Martin King, in peculiar regard. Perhaps the spirit of his people, their courage and patience, the poverty in which the majority of them live and die, their faith in man's goodness, might revive your soul. Perhaps they could be persuaded to receive you into their midst for a time, as one more white man in search of a soul. You might be brought to tears and a change of heart. Among these people, steeped in the wisdom of suffering, such things are held possible. You could share their buffets and humiliation as they seek justice in our courts, or healing in public hospitals, or survival on public welfare. The teeth of rodents, the cries of hungry children, might pierce the tranquil armor of your isolation and open you to the realities of life as experienced by so many today.

A like plan might be workable among our Spanish peoples, concerning whom you have vented certain feelings of late. Or among peoples of Appalachia or the slums of Brooklyn or Chicago.

But then I thought in near despair, who am I to choose for you, or for the peoples of poverty, the form of your soul's rebuilding? The people must choose; you must choose for yourself. No man can easily enter, as a friend or disciple, among those he has stigmatized. Nor can I choose, for you, so to enter. It might even happen that such despair, such anguish (as well as such invincible love and long sufferance and courage) as is the daily portion and resource of these people, would break you in pieces, as it nearly breaks me, each day I live among them in prison.

No, in the cold daylight of America, it is clear that my reflections are nearly hopeless. I cannot choose for you, or for the people the form of your healing.

Still, perhaps my words have not been entirely without point. I have insisted, and continue to insist, that you stand under the law, in spite of all. You stand there, as I stand there. The government has obligingly set the term and condition of my punishment. If I refuse to apply the same harsh word to you, or to "punish" you even in my thoughts, it is because I continue to take seriously one truth—that no man can be punished into manhood. Neither you nor I nor the prisoners in domestic Tombs nor those in foreign Tiger Cages. No, if some men, suffering the rigor of the law, choose to become men, which is to say if they perservere in nonviolence toward the keepers of tombs and tigers, it is not because punishment or cages, or tombs, are tools of human change.

Such men are reborn because they choose to punish no one, to work no violence in return for violence. Thus, they choose, when manhood is defaced by official violence, by war, by law and order masking lawlessness and disorder—they choose to love. In that choice, you are included. In that choice I venture to say, you will be saved.

For both of us, and for many others as well, whatever their circumstances of power or powerlessness, one question remains. It takes many forms; it is one. How shall we become men? How shall we live with other men? How shall we so live that no man need die—whether of hunger, of violence, of vengeance, of despair, of the accumulated burdens of life, its injustice and poverty pressing him into the earth before his time? What law shall we keep so that no life be lost in the keeping? And inevitably, when is violation of the laws a vindication of human life?

In court, in prison, at prayer, I have come on only the most tentative answers to these questions. I can only say to you, I have come on the questions.

But I have never heard, that in almost 50 years of voluminous public utterance, you have framed a single such question. You have summoned Americans to many a crusade—against violators of law, against delinquents and deviants. But have you ever given thought to the victims, to the poor, to those who seek a life worthy of human beings, to those whose "criminality" is a great cry against injustice, against the law inequably applied, against institutional disorder?

This letter is a long one. I hope it proves neither burdensome nor accusative. I hope through it to offer you thoughts which are of more profit to you than the encomia of those who praise thoughtlessly.

My father who died at 90, would say a late wisdom is better than no wisdom at all. I pray for you, as for myself, that better wisdom.

Sincerely,

DANIEL BERRIGAN, S.J.

SCOTLAND NECK, N.C.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 20 minutes.

Mr. FOUNTAIN. Mr. Speaker, Scotland Neck, N.C., is a thriving, progessive North Carolina town, despite what NBC–TV may have said to the contrary during a 1-hour program on August 27, 1971.

Scotland Neck, N.C., is a wonderful place in which to live and work and play, and I am proud and honored to represent this fine community and its people in the Congress of the United States.

On Wednesday, November 3, 1971, the Scotland Neck Commonwealth, of which Eric W. Rodgers is editor, devoted an entire edition to a correction of the misinformation and erroneous impression conveyed by NBC–TC, and to telling of the truth "about the real Scotland Neck, which apparently NBC–TV deliberately overlooked or made no effort to discover.

I would like to bring several articles from this edition to the attention of my colleagues, and all others who may have seen and heard the NBC–TV program in question.

They are as follows:

READ THE TRUTH

Several weeks ago there appeared on a national television broadcast by National Broadcasting Company a program which was very disparaging to Scotland Neck. The program attempted to give a picture of conditions in some sections of the South, and centered in part on Scotland Neck and vicinity. It referred to Scotland Neck as a dying community, and went on to give alleged facts to back up the conclusion. Some of these statements were half-statements, to say the least. The bad was emphasized and the good was overlooked. It put Scotland Neck in a very bad light insofar as the viewing public was concerned.

It was decided by the management of the Scotland Neck Commonwealth that a rebuttal to the statements that were made and the conclusions which were drawn was in order. This edition of the newspaper in our answer to the largely unjustified and unfair picture of this community which was given. Merchants, private citizens, public officials and organizations have joined wholeheartedly in this effort to tell the truth about the REAL Scotland Neck.

No this community is not dying, neither is it discouraged because there have been in recent years some unfavorable events brought about by mechanization of the farms. We have accepted these events as part of the ups and downs of history. One does not expect over a long period of years that every economic event will be favorable, nor is one downhearted whenever everything does not occur according to an optimistic plan. But all of us do expect that when the bad is reported in vivid phrases and deceptive photographs, the good also will be reported at the same time. This was what the television broadcast did not do, and in thus failing to report all the facts the television promoters were recreant to the trust reposed in them to deal fairly with all in matters affecting the activities and lives of others.

We will not attempt to summarize this edition in a single editorial. There is so much that is good about Scotland Neck that we urge all our readers to read this edition carefully. Here they will find the truth.

NBC PEACOCK LAYS EGG IN BLACKBIRD NEST

(By Lew Gregory)

Why Scotland Neck was selected for the story is anybody's guess, but many people have said it was because of the national publicity surrounding the millions of blackbirds which annually roost in the woods west of town. As if the birds were not problem enough, the town recently experienced another type of invasion.

On August 27, 1971 NBC News presented a one hour "documentary" entitled "Leaving Home Blues". The purpose of the show was to dramatize the plight of rural youth who are unable to find employment upon graduation from high school and must migrate to urban areas to get a job. Scotland Neck was one of the two towns chosen to represent the problem. The people of Scotland Neck resent the manner in which the story was researched and reported. This issue of the Commonwealth is dedicated to a rebuttal to NBC News' claims that Scotland Neck is a dying town.

Generally, people in Scotland Neck were angry at what was unanimously considered biased reporting. The one shot of Main Street was barely recognizable and gave the appearance of a fairly adequate set for an old western movie. There was not one shot of a relatively new home, not one picture of a church, not one glimpse of a prosperous looking business.

Few people interviewed by the Commonwealth denied Scotland Neck has problems. Everyone we interviewed agreed that Scotland Neck's problems are minor in comparison to neighboring communities and the general situation nationally.

The Scotland Neck Industrial Development Team is a group of businessmen who have volunteered their time to tell the Scotland Neck story to industries which might consider locating here. They have donated many hundreds of man hours and travelled many miles promoting this town. They have not been without success. In recent years Fulflex of Carolina and Paul Bruce Co. have both built plants and both are thriving and expanding. Fulflex is advertising in this issue of the Commonwealth for personnel to man an expansion program and Joseph McCauley, Manager of Paul Bruce Co., told this reporter that his company has hired over one hundred people since he came here less than six months ago.

The "Dying town" label patted on the town of Scotland Neck would probably have been accepted as an example of the usual opinion of city dwellers for their less suave and sophisticated counterparts who live in the small towns. There was talk about the show, but it gradually died down. Then it was learned that Senator Stevenson of Illinois, the Chairman of the House Committee on Rural Migration, had submitted the entire text of "Leaving Home Blues" to be printed into the Congressional Record of September 10. This was the last straw. Civic pride reared its head and the people stepped foreward to defend their town's name. No one claimed that NBC News had said anything untrue, but everyone agreed that half truths distorted the story and the result was as if there had been little desire for all the facts.

The facts are that Scotland Neck has experienced steady growth for many years. The town budget for the 1970–1971 year was almost double that of the 1946–1965 figure. Property values and tax levies have risen steadily each year since 1965. Since 1965 Scotland Neck has spent $765,391.66 on capital expenditures with only one federal grant of $38,700 which went toward a new sewer plant. In 1968 bonds totaling $151,365.25 were issued and this indebtedness has been reduced to $105,000 which represents the total debt of the community. There is a $40,000 reserve fund to go toward construction of a new Municipal Building in the near future. All this with a tax rate of $1.30 per hundred valuation which rate has remained constant for ten years. Voter registration is up from a 1965 figure of 997 to 1329 in 1970. These are not the symptoms of a dying town. In fact a March 24, 1971 article in this newspaper stated that Scotland Neck had more money on hand ($346,580.00) than any town in Halifax, Gates, Hertford, Bertie, or Northampton Counties, and this included towns such as Ahoskie which is many times the size of Scotland Neck.

The above figures were all available to the NBC News team which made the assumption that Scotland Neck was dying. The "Newsmen" made no effort to obtain them. They did not contact the Town Clerk, either bank or the Building & Loan, and did not have the courtesy to talk with Mayor Harrison. It appears to many that they came to Scotland Neck with their answers already written down and didn't take the time to ask the questions. When a reporter from this newspaper courteously requested a brief interview with the director he was asked to return in 30 minutes. He was back in 20 minutes and waited 45. Finally he was ushered out of the building and the door closed behind him. After seeing the television results of their work, the reporter said he understood why they were reluctant to discuss their intentions.

While the distorted image of Scotland Neck has been broadcast across the country and accepted by many as accurate, the citizens of this town do not feel it has done them any major damage. They have no illusions about this small town being of any great national importance, and feel that most of those who viewed the program have already forgotten the names of the towns mentioned.

Two things do concern them. First, a group of disheveled, discourteous visitors came to our town, and made what appears to be a deliberate attempt to tell a distorted story about us. Second, and perhaps more important, if this is an example of the accuracy with which our national news media present their findings then this nation is in serious trouble.

It is time those responsible for forming the opinions of the masses search their consciences and accept fully the tremendous responsibility to which they have been entrusted. Perhaps our most precious liberty is that of being truly and fully informed. The practices we have mentioned here are a serious threat to that liberty.

Biased Reporting at Its Worst

(By Lew Gregory)

On August 27, NBC News presented a one-hour "Documentary" entitled "Leaving Home Blues." The subject was rural migration in America and about half of the program was devoted to NBC's contention that Scotland Neck is dying because all of its youth are leaving town and going up "North."

To anyone not familiar with the facts, the program would leave no doubt that Scotland Neck is a hick town without a single home or church or business worth photographing and those who do not immediately pack up and migrate somewhere—anywhere—are simply not facing the facts of life. According to NBC News, Scotland Neck is dead.

We protest this hasty conclusion which we contend was reached before the news team arrived in town. We say they had their minds made up because no member of the news team contacted our mayor, either banker, the town clerk or any of the local agencies which could give factual data about the condition of the town.

We realize that their primary mission was to dramatize the flight of certain young people from rural areas to urban centers. We make no denial of this, but we protest the omission from the film those students who said they were not leaving. We protest the statement that Scotland Neck is a dying town.

We protest the absence of pictures showing anything good about our town. Not one decent home, not one church, not one stable business.

We protest that NBC stated, but buried, the fact that 56 per cent of the graduates were actually going home. They had been living here with their grandparents.

We protest that our town has been held up before the nation as an indigent welfare recipient, unable to care for its own.

We do not deny our problems. No town or city regardless of size is without them.

But we demand the right to speak out in defense of our town. Our citizens, both black and white, have been insulted by a group of newsmen who were so disheveled and unkempt that one banker refused to cash their travelers checks until they produced positive identification.

The people they insulated may live in a small town, but they are the kind who are the real heartbeat of America. Scotland Neck is weathering the mechanical revolution of agriculture. Scotland Neck is weathering the racial revolution with stable, level headed citizens, both black and white, working together without a single race riot in our history. It has not been easy for either side in these issues, but this town has stood for almost 300 years and its roots go deep. Blacks and whites together love this town and together they will see that it does not die.

In a survey of local businesses every reply we have received has said they had experienced a steady increase in business and had confidence in the future of Scotland Neck.

Branch Banking and Trust Company has averaged a seven percent increase each year for the past five years and is presently constructing a new building to support an anticipated 10 percent annual increase over the next five years.

Fulflex of Carolina, our largest industry, is presently advertising for men to staff a 20 percent expansion program.

The Scotland Neck Development Commission has been actively soliciting new industry and expects to announce favorable results very soon.

If these are signs of a dying town, then the whole world is sick.

Anyone who reports the news will occasionally miss a fact or misinterpret an action. But for a team from one of the major national networks to base their entire story on interviews with students and new teachers without even trying to contact the town officials is frightening.

We say we have a free press. It is just possible that the Russian peasant is more accurately informed than we are. Chances are his underground is reliable.

Street Talk

(By Lew Gregory)

It's fun to get into a project when everything goes just as you hoped it would. We just had that experience.

It all started when we decided to write a rebuttal to the slipshod crew from NBC News who put on the supposedly factual show called "Leaving Home Blues." We sent out questionnaires to many of the businesses here in town to see if they were contacted for any information and what their opinions were of the business and labor situation here.

The responses were so consistent in saying that Scotland Neck had been done a gross injustice and unanimous in the feeling that the truth had been distorted that we saw the possibility to use this as a rallying point for our town. Hence, this special "Staying Home Joys" issue.

The merchants of Scotland Neck have put themselves on record here as being glad to do business in this town. They are consistent in the feeling that, while we undeniably have problems, business, in general, is better each year, and they are glad to be a part of the Scotland Neck business community.

We are printing several hundred extra copies of this issue and will give them, without charge, to the Scotland Neck Development Commission to show to prospective industries. It is generally agreed that statements from those of us who make our living here should be impressive to someone

considering this as a location for an industrial plant.

If this effort is successful in helping to bring one new industry to Scotland Neck it will have been more than worth the time and trouble which went into it. Every business in town will feel the difference brought about by an influx of new families and fuller employment for those already living here.

The response from the merchants has been practically unanimous. We said, in an editorial written several weeks ago but printed in this issue, that those of us in this issue, that those of us in this town have roots which go deep. We had no idea how deep. This town is far from dead. Sure, it's a small rural community, and not very impressive to urban dwellers accustomed to skyscrapers, smog in their lungs, and grit in their eyes, but we serve fair warning to those who would distort the truth to malign us. There is a solid foundation under this quiet little town of Scotland Neck and even NBC News isn't big enough to grab this tiger by the tail.

As long as this spirit lasts, we will have our quiet little town. We will have a place we can be proud to call home.

BUSINESSMEN REACT TO "LEAVING HOME BLUES"

In order to poll the opinions of businessmen and merchants in Scotland Neck the Commonwealth sent out questionnaires asking what they felt of the accuracy of the story told by "Leaving Home Blues." The responses were consistent in their disagreement with the conclusions drawn by NBC News.

100% of those answering said they had not been contacted for any comment on the Scotland labor or school situation. One of those answering was Bob Winfield, Chairman of the Scotland Neck School Board. He commented ". . . I assume they didn't want true facts."

Other questions and the responses follow:

What trend has your business taken during the past ten years? 20% answered "Slight increase" and 80% said "Steady increase."

What is your outlook for the future of Scotland Neck? Pessimistic 0, Not encouraging 0, Fair 7%, Moderately good 62%, and Excellent 31%.

Are you planning an expansion in your business within the next two years? Yes, 56%, No, 31%, and 13% had just completed expansion programs.

When you have a job vacancy do you have difficulty filling it? Yes 57%, No 43%. Those answering yes all said they had difficulty finding qualified labor.

75% of those answering said they had seen Leaving Home Blues. They all said they believed it to be biased, and 66% said it "Grossly misrepresented the facts."

Interesting conclusions, can be drawn from some of these replys.

In the "Blues", Stuart Wooten, Principal of Scotland Neck High School stated that his school offered industrial arts training such as bricklaying, but the men could not find work in Scotland Neck. In answers to the questionnaires A. C. House, Jr. builder said he has difficulty filling vacancies because no qualified labor was available. W. L. Clark, builder, said he was not expanding because "No labor available." American Homes and Realty Co. mentioned the shortage of bricklayers and having to wait for men to come from out of town to do this work.

Walter Anderson of Fulflex said that only a very small percentage of the graduates from Scotland Neck High School apply to his company for work. Extra publicity given his company by the "Blues" probably has something to do with the fact that twelve members of the 1971 graduating class are now on his payroll. Most of them had not applied prior to the show.

A statement by an automobile dealer sums up the feelings of many of the business community. "NBC should be made to pay for this misrepresentation, it hurts."

REGISTERED VOTERS

Registered voters have increased one third in the past five years. Some people may be moving away, but some are staying in Scotland Neck.

In 1965 there were 997 voters registered in Scotland Neck township and in 1970 the figure had risen to 1329.

TOWN BUDGET

If town budgets are any indication of the financial health of a community then Scotland Neck is about twice as healthy as it was six years ago.

The 1964–'65 budget was $399,950.00 compared to the 1970–'71 budget of almost twice as much $710,317.15.

The budget does not include an item marked "Funeral, town of Scotland Neck."

CAPITAL EXPENDITURES INCREASE

Total expenditures by the town of Scotland Neck have been on the rise in recent years.

Capital expenditures are investments in the future. A dying town has little use for such planning.

1965	$40,915.27
1966	80,879.49
1967	232,973.18
1968	98,735.25
1969	145,879.68
1970	166,008.79

Specifically money went toward the following major items:

New water plant	$187,152.16
New sewer plant	138,404.00
Sewer additions	112,000.00
Street improvements	251,316.30
Building reserve	40,000.00

PROPERTY VALUATION

Property valuation and tax levies in Scotland Neck have increased at a steady pace during the past seven years for which figures were checked.

Year, Property value, and Tax levy:

1965, $4,391,994.00, $57,490.61.
1966, $4,544,781.00, $59,471.15.
1967, $4,778,476.00, $62,521.14.
1968, $4,864,696.00, $63,621.74.
1969, $4,969,828.00, $64,969.55.
1970, $5,089,080.00, $66,463.44.
1971, $5,291,745.00, $69,123.51.

CLARIFYING TERM "CHILD" UNDER RETIREMENT LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 10 minutes.

Mr. DULSKI. Mr. Speaker, at the request of the U.S. Civil Service Commission, submitted to you by letter of November 2, 1971, I am today introducing legislation to clarify and expand the definition of the term "child" in the civil service retirement law.

Chairman Hampton has outlined the background and basis for the proposed legislation in his letter which I include as a part of my remarks:

WASHINGTON, D.C.,
November 2, 1971.

Hon. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Commission submits for the consideration of the Congress, and recommends prompt favorable action on, the attached legislative proposal. The proposal would expand the definition of the term "child" in the Civil Service Retirement law (5 U.S.C. 8341) for survivor annuity purposes to include as an adopted child one who has met the conditions described below.

The current definition of a child in the retirement law in effect, provides that an adopted child is legally adopted only when the decree of adoption has become final. The purpose of the proposed legislation is to provide that the child shall be considered legally adopted in each case where (a) a petition for adoption had been filed, (b) the child was residing in the home of the individual, and (c) the final decree of adoption was subsequently granted to the deceased's surviving spouse.

Despite the fact that the prospective adoptive parent has assumed full parental responsibility for the child, an adopted child is not recognized for the purposes of survivor annuity benefits under the Civil Service Retirement law unless the final decree of adoption was issued before the death of the employee. On the other hand, a stepchild who lives with a Fedral employee in a regular parent-child relationship is immediately recognized for survivor benefits. It appears reasonable to assume that the parent-child relationship is at least as strong in the case of a child where adoption proceedings have been undertaken.

Similar legislation has been enacted for the purpose of Social Security, Railroad Retirement and Veterans Administration benefits. Section 216(e) of the Social Security Act reads, in pertinent part, as follows:

"A person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but only if (A) proceedings for the adoption of the child had been instituted by such individual before his death . . ."

The Railroad Retirement Act (Section 228 e(1)(l)) provides that the definition of a "child" is the same as that in the Social Security Act.

Section 101(4) of title 38, United States Code includes in the definition of "child", for purposes of Veterans Administration benefits, the following:

"A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until the decree is rescinded: *Provided*, that the child remains in the custody of the adopting parent or parents during the interlocutory period."

The Commission believes this legislation is necessary to provide equitable relief to the deceased's surviving spouse in the relatively rare case where a Federal employee had initiated adoption proceedings, died before the adoption could become final, and his widow did finally adopt the child.

Inasmuch as the number of children to be affected by this proposal cannot be determined, it is not possible to estimate the additional cost of this proposal to the Civil Service Retirement and Disability Fund. However, because such cases rarely occur, the cost will be relatively negligible.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to submission of this draft bill to Congress.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
chairman,
U.S. Civil Service Commission.

KEYSTONES FOR WESTERN SECURITY: CONTINUED U.S. SOVEREIGNTY OVER CANAL ZONE AND MAJOR MODERNIZATION OF PANAMA CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, in many addresses and public statements in and out of the Congress over a period of years, I have stressed that continued sovereign control by the United States over the Canal Zone and the major modernization of the existing Panama Canal are keystones in the arch of Western security. Momentous events since 1956, including two closures of the Suez Canal, the Communist takeover of Cuba, the election of a Red leader as President of Chile, and the expulsion of Nationalist China from the United Nations, coupled with the admission of Red China to that body, have fully justified my position.

At its annual meeting on October 16, 1971, in the well-known Cosmos Club in the Nation's capital city, the Panama Canal Society of Washington, D.C. in a most timely program of outstanding quality that was illustrated with slides, stressed the strategic principle that the Panama Canal is crucial for hemispheric defense.

The officers of the society are Capt. Miles P. DuVal, Jr., U.S. Navy, retired, eminent historian of the Panama Canal and authority on interoceanic canal problems, president, who presided; Maj. Gen. Charles Holle, U.S. Army, retired, former engineer of maintenance of the Panama Canal, vice president; and Prof. Richard B. O'Keeffe, George Mason College, University of Virginia, and consultant on interoceanic canal problems for the American Legion, secretary and treasurer.

The meeting honored the builders, operators and defenders of the Panama Canal and recognized the 101st birthday—August 15, 1971—of the Honorable Maurice H. Thatcher, sole surviving member of the Isthmian Canal Commission that supervised construction of the great tropical waterway.

The audience was distinguished and included such personages as Mrs. Pierre Gaillard, daughter-in-law of Col. David D. Gaillard after whom Culebra Cut was renamed as Gaillard Cut; Maj. Gen. Thomas A. Lane, U.S. Army, retired, formerly on Army engineering duty in the Canal Zone, and Mrs. Lane; Lt. Gen. Walter P. Leber, U.S. Army, recent Governor of the Canal Zone, and Mrs. Leber; John F. Stevens III of Baltimore, former railroad official, grandson of former Chief Engineer John F. Stevens of the Isthmian Canal Commission (1905–07), and Mrs. Stevens; Brig Gen. Herbert D. Vogel U.S. Army, retired, former Lieutenant Governor of the Canal Zone, and Mrs. Vogel; and Mrs. Ailene Gorgas Wrightson, daughter of Maj. Gen. William C. Gorgas, the great Isthmian sanitarian whose work (1904–14) made the construction of the canal possible.

The program included an impressive musical prelude and the national anthem by the U.S. Army Field Band, Soldiers of Song, with Sp. Avery B. Todd as conductor; "America" beautifully sung by Jacqueline Newman, soprano from Baltimore; an invocation by Rev. Joseph T. Durkin, S.J., professor of history, Georgetown University; the Pledge of Allegiance led by John M. Kane, assistant director, National Security Foreign Relations, American Legion; and special recognition of the few remaining senior members of the society who had served on the Isthmus during the construction of the canal, among whom was Stephen Latchford, a former president of the society.

An usual feature of the program was the exhibition of preserved specimens of the poisonous yellow-bellied Pacific sea snake and the Pacific crown-of-thorns starfish that scientists fear would infest the Atlantic in event of the construction of a new canal of sea level design.

It is interesting indeed that 3 days after the meeting the New York Times on October 19, 1971, published a page 1 biased and inaccurate newsstory in effect supporting the State Department's objectives of bringing about the surrender of U.S. sovereignty over the Canal Zone to Panama and propagandizing the old idea of constructing a sea level canal. The New York Times newsstory was followed by a spate of newsstories and editorials in various parts of the United States that were grossly inadequate and misleading. As the principal addresses refute the major points of the propaganda deluge the October 16 program was most timely and should be read by every objective editor, reporter or other publicist.

In order to make the entire program available to all Members of the Congress and officials of the executive branch, I quote its principal parts as follows:

PROGRAM OF ANNUAL MEETING OF THE PANAMA CANAL SOCIETY OF WASHINGTON, D.C.

INVOCATION BY THE REVEREND JOSEPH T. DURKIN, S.J.

Almighty Father, infinitely wise and loving toward us Your sons and daughters on this little earth that is so dear to us, we ask this favor: that as the men we honor today built for the unifying of two oceans, we may have the wisdom and courage to build for the unifying in peace of the nations of mankind. Moreover, may the brilliant engineering achievement that we today commemorate make us realize another truth—that science and techology, so long as they are guided by the aim of benefiting and not oppressing human beings, are among the most precious powers that Your omnipotence and love have placed in men's hands. In the words of the moving poem of Ford Lewis Battles, may me ". . . say with power 'Not ended; let us ever build. . . . '"

We humbly and with great confidence ask you, O Heavenly Father, to bless us all and to bless and protect our dear country.

PROLOGUE

(By Captain Miles P. DuVal, Jr.)

Fellow Members of the Panama Canal Society, Distinguished Guests, Ladies and Gentlemen: On August 15, 1970, the 56th anniversary of the opening of the Panama Canal, our society paid its highest tribute to one of its most distinguished members on the occasion of his 100th birthday—Governor Maurice H. Thatcher. More than any other person now living he symbolizes the great effort of the American people in the construction of the Panama Canal and its subsequent operation and defense, all of whom we honor today.

Because of the historic value of last year's program, Senator Strom Thurmond of South Carolina quoted the entire proceedings in an address to the Senate in the CONGRESSIONAL RECORD of September 9, 1970. Thus, it has been made available for his historians and scholars in the principal libraries of the world.

In the course of his long and illustrious career, Governor Thatcher preserved his correspondence of historic and research value; assembled press clippings on his life and achievements and useful miscellany in impressive scrapbooks; gathered an unusual array of honors, pictures, and trophies; and assembled a private library of classical character. Together with valuable manuscripts of his own poetical compositions, they form a collection of unusual reference quality.

Among his most recent honors were his election by the Gorgas Memorial Institute of Tropical and Preventive Medicine as its Honorary Life President and the dedication to him of the recently published definitive history of the Institute and the Gorgas Memorial Laboratory.

During the past year all of these items have been placed in a special room in the magnificent Temple of the Scottish Rite Masons, Southern Jurisdiction, at 1733 16th St., NW, in Washington, D.C., which bears the name of the Thatcher Collection. This well organized material will undoubtedly become a source for future researchers into the Governor's life and attainments, including much of value concerning the Panama Canal, the U.S. Congress, the National Park System, the story of the Pilgrims, and the Gorgas Institute.

Governor Thatcher's 101st birthday occurred on Sunday, August 15, 1971, and was passed in comparative quiet. This program, therefore, includes recognition of the one who for so long has devoted his life to his State and Nation and has already become a great tradition as benefactor of Kentucky and the Isthmus—Governor Thatcher, who will introduce our first speaker.

REMARKS OF GOVERNOR THATCHER INTRODUCING SENATOR THURMOND

Mr. President, Old Timers, Members of the Society, and Guests:

First, as one who cooperated in the creation of this Society, many years ago, and assisted in the preparation of its recently adopted Constitution under the reorganization, I am indeed grateful for the continued vitality of the Society, and wish to indicate my deep appreciation of the honor accorded to me in this program, especially the choice of myself for this very pleasant task I am now to perform.

I trust that this organization will continue to go forward with increasing vigor. To you, Captain Duval, our most earnest gratitude is due.

Having served on the Isthmus during peak construction of the Panama Canal, I have long cherished a warm affection for the people of Panama and the Canal Zone; and I included, among my Isthmian friends, all the leaders of the November 3, 1903 Revolution, except Panama's first President, Dr. Amador, who died before I first arrived on the Isthmus.

They were men of the highest patriotism and character, who were heroic in what they did, and were loyally supported by the Panamaians.

From the moment of my arrival, I fully realized the vast significance of the Panama Canal. My experience there has always been a source of great inspiration, and I have also been most grateful for my identification with the greatest industrial enterprise of history. My Isthmian interest has continued ever

since. I have ever welcomed any opportunity for serving the Canal, its officers and employees and the Panamanian people.

On this occasion, it is not my purpose to discuss the present complex condition of affairs as to the Canal and the Canal Zone. The able and distinguished speakers will give special emphasis to the question of increased capacity of the Canal.

In past years, our Society has had many brilliant programs; but none, perhaps, superior to that for today. Our speakers are very able men of independent thought. Thus, I feel highly honored to be called upon to introduce our first speaker, whose career in the governments of his State and Nation, has been one of great distinction.

When our Country entered World War II, he volunteered for service the same day—such was his patriotic reaction—and became a paratrooper and participated in combat operations in the European and Pacific sectors. He won many decorations, including the Purple Heart, for being wounded in action.

After the war, he was elected Governor of South Carolina in 1947, was an independent candidate for President of the United States in 1948, and was elected to the United States Senate in 1954—as a write-in candidate—a striking example of his popularity.

He was reelected in 1960 and 1966. In the Senate, he has been outstanding in his courage and independence on all public questions.

One of the consequences of his war experience was an increased appreciation of the vital importance of the Panama Canal. Thus, when the future of the Canal became a subject of national concern a few years ago, he assumed leadership in the Senate and became one of the outstanding Canal authorities in the Congress.

I have the honor and privilege of now presenting to you this outstanding fellow American and my friend, the able and fearless Senior Senator from South Carolina, Strom Thurmond, who will have as his subject: "The Great Isthmian Challenge: Major Modernization of the Panama Canal."

ADDRESS BY SENATOR STROM THURMOND (R–SC): GREAT ISTHMIAN CHALLENGE: MAJOR MODERNIZATION OF THE PANAMA CANAL

Mr. President, Members of the Panama Canal Society of Washington, D.C., distinguished guests, ladies and gentlemen:

As one who has studied Isthmian history, I appreciate the magnitude of the problems that were involved in the acquisition of the Canal Zone and the construction, maintenance, operation, sanitation, and defense of our great trans-Isthmian waterway.

In reading the Constitution of your society, I note that this body was organized in 1936 by certain builders of the Panama Canal. Its main purposes are as follows: The support of the Constitution of the United States; the retention by the United States of its Constitutionally acquired sovereign rights, its ownership; and its power and authority over the Panama Canal as well as its protective frame of the Canal Zone. These rights are indispensably necessary for the security and welfare of the United States, Panama, the Western Hemisphere, all free nations, and world shipping. These are most praiseworthy and absolutely necessary objectives.

This history of the Panama Canal is a record of crises starting under the leadership of Ferdinand de Lesseps, builder of the Suez Canal, at the Paris Congress of 1879 of the great French effort for its construction. The towering genius in that assembly was Adolphe Godin de Lepinay, a French civil engineer, who in simple terms outlined the plan for the Canal that in its main features was eventually adopted by the United States.

Today, the Canal is in the midst of an another decisive turning point that combines not only a struggle over site, but also debate over the question of type. The consideration of these matters is greatly complicated by unfounded demagogic assaults against the United States and its sovereignty over the Canal Zone and the Canal.

The interoceanic canal situation became critical in the 1950's. It was at this time that Congressman Daniel J. Flood of Pennsylvania, in a remarkable series of addresses on Isthmian Canal policy questions in and out of Congress, undertook to clarify the principal issues. Since that time he has established himself as one of the key experts in the field, and I wish to pay tribute to him for his great work.

The result was focusing national and international attention on two vital questions: (1) Continued United States Sovereignty over the Canal Zone, and (2) The major modernization of the existing Panama Canal.

As to the supremely important question of United States sovereignty over the Canal Zone, we should remember that this territory is Constitutionally acquired domain of the United States with exclusive and positively essential sovereign rights, power and authority granted to us in perpetuity by Panama. For this grant Panama was paid by the United States. In addition to securing the grant of sovereignty over the Zone territory, the United States also obtained title to all privately owned land and property in the Zone by purchase from individual property owners, making it the most costly territorial acquisition in the history of our country. Moreover, the title of the United States to the Panama Canal was also recognized by Colombia, the sovereign of the Isthmus before the Panama Revolution of 1903.

As an artery of marine transportation, the Panama Canal enterprise became, and still is, a part of the coastline of the United States. As such its exclusive control by the United States is just as necessary for national defense as the control of the Chesapeake Bay or New York Harbor. Efficiently serving interoceanic commerce of all nations on terms of equality with tolls that are just and equitable, it has won the admiration of the world.

Now we'll show you a series of slides of the Panama Canal from one end to the other without explanation. (Pause for 18 slides)

In 1967, after three years of diplomatic discussions, the Presidents of the United States and Panama announced the completion of negotiation of three new Canal treaties. As the negotiations grew to a close, I was alarmed by reports of the forthcoming treaties and applied myself to a close study of the situation and the Canal problem. It was at this time that I became convinced that continued U.S. control depended upon maintaining our sovereignty in the Canal Zone and modernizing the present works.

The proposed treaties were negotiated by Robert B. Anderson, who was the Chief Negotiator for the U.S. Frankly, I was amazed when I actually obtained copies of the treaties and published them in the Congressional Record. Those treaties would have surrendered U.S. sovereignty control and ownership of the Canal Zone and the Panama Canal, as well as any new canal built by our taxpayers. The treaties provided for a nationalization by Panama of the Zone territory and for internationalization of the Canal itself under a bi-national canal authority. In the background, but not in the public discussions, was the objective of ultimate control of the Panama Canal through a multi-national agency, perhaps under the authority of the U.N.

Such treaties were totally unacceptable according to the thinking of scores of U.S. Representatives and U.S. Senators. The reaction, both in the U.S. and Panama, was so hostile that those treaties were never signed and never submitted to the Senate.

It is discouraging, therefore, to see that negotiations are once again underway with Panama, even though the present Government is a revolutionary regime with little prospect of stability and with no procedures for ratifying a new treaty. More discouraging still is the fact that the State Department openly acknowledges that the basis for negotiation is the surrender of U.S. sovereignty and the giving up of our jurisdiction throughout most of the Zone. Indeed, the main point of negotiation is still to be the issue of duration of the new treaty. That is to say, how long before we give up all of our rights completely?

In my judgment, it is a semantic trick to maintain that the U.S. can keep control of the Canal and the capability to defend it if ever we give up our sovereign rights. The duration of a treaty is not the key issue when the treaty itself gives up our basic rights. Such a surrender document would last too long if it lasted only one day. I believe that if a new treaty is necessary—and I am not yet convinced of that—then at a minimum we must maintain our sovereignty in the Zone, with the physical control which that implies; and we must maintain U.S. citizens in the policy-making and strategic areas of the Canal operation. It is a fallacy to believe that we can control the Canal or keep our obligation to keep the Canal running if we allow foreign nationals to be in substantial control of the decision-making and highly technical posts connected with the operation of the Canal.

It is possible that certain disagreements and irritations can be solved through negotiations with the Republic of Panama, but we can never agree to a treaty which does not allow us to have the physical and actual capability of keeping the Canal secure. It is for this reason that the sovereignty of the Canal Zone is the key issue which must never be compromised.

Before taking up the question of Panama Canal modernization, I wish to mention the recent report of the Atlantic-Pacific Interoceanic Canal Study Commission under Public Law 88–609, approved September 22, 1964, of which Mr. Anderson was also the head. This voluminous report, consisting of a main report and 5 annexes in one thick volume and 17 appendices in six additional volumes, with a total of more than 2,500 pages, required more than five years to prepare and burdened our taxpayers with an expense of over $21 million. It was submitted to the President on December 1, 1970, and has been widely distributed, but no official action has thus far been taken thereon.

The report recommends the construction of a so-called sea level canal about 10 miles west of the existing canal, wholly on Panamanian territory, at an *initially* estimated cost of $2,880,000,000. This figure does not include the costs of the right-of-way in which to build the canal or of the inevitable huge indemnity that would be required by Panama. Besides, this recommendation hinges upon the surrender to Panama by the United States without the slightest reimbursement of its treaty-based sovereignty over the U.S. owned Canal Zone and its important and valuable installations. Such surrender to any realistic person is unthinkable.

The total net investment of the taxpayers of our country in the present canal, including the costs of construction and defense from 1904 through June 30, 1968, was more than $5 billion. Moreover, some of the leading advocates of the sea level proposal have admitted publicly that the purpose of a sea level project is to secure better treaty relationships with Panama. They have even said that if unable to secure such relationships, a sea level canal is not justified and may never be constructed; and that, in any event, it is not economically warranted.

As to relations with Panama, the project recommended by the Anderson commission would require a new treaty with that country and thus open a Pandora's box of trouble.

Another aspect to the sea level proposal is the ecological problem. Recognized scientists who have studied Isthmian biota (fauna and flora) overwhelmingly oppose it on the ground that it might produce a biological catastrophe affecting the food supply of the countries in the Isthmian region. This danger might also include the infestation of the Atlantic Ocean with the poisonous yellow bellied Pacific Sea Snake and the Crown of Thorns Starfish now nonexistent in the Atlantic Ocean. A later speaker will discuss this important subject.

For these, and many other reasons, the level project is being vigorously opposed by many competent, independent and objective canal experts.

The second main point that I shall discuss is the major modernization of the existing Panama Canal. Authorized by the Congress in 1939 prior to the outbreak of World War II in accordance with treaty provisions, work started in 1940 is what is known as the Third Locks Project, but it was suspended in May, 1942, because of more urgent war needs. More than $76 million was expended, mostly on lock site excavations at Gatun and Miraflores, but none at Pedro Miguel, which is fortunate.

Experience during the war enabled more thorough studies in the Panama Canal organization of the subject from the operational and navigational standpoints. Out of these studies there was developed what is known as the Terminal Lake-Third Locks Plan, which has attracted national and international attention, especially by users of the canal.

This plan would eliminate the Pedro Miguel Locks, abandon present Miraflores Locks, consolidate all Pacific Locks just south of Miraflores, raise the summit level of Gatun Lake and its extension through Gaillard Cut a few feet, and create a summit terminal lake in the Pacific end of the Canal. This plan would make possible uninterrupted navigation from the Atlantic Locks to the Pacific Locks.

The plan also would enable the maximum utilization of all work that has thus far been accomplished since 1914, including the enlargement of Gaillard Cut and other channel improvements completed on August 15, 1970, at a cost of some $95 million. When the last is added to the $76 million already spent on the original Third Locks Project, the total expended toward the major modernization of the existing canal is more than $17 million, all of which would be lost to our taxpayers if the proposed new sea level canal were constructed.

There are several vitally important points about the Terminal Lake proposal: Its construction is authorized under existing treaty provisions; it does not require the negotiation of a new one or further indemnification; it protects against biological catastrophe; it avoids the danger of disastrous slides; and it can be constructed at relatively low cost—only a fraction of that of any sea level undertaking. These are major considerations and cannot be ignored. Moreover, such modernization would fully preserve the economic interests of the Panamanian people.

Another consideration is this: The Constitution of the United States vests the power to dispose of territory and other property of the United States in the Congress and not in the treaty-making power consisting of the President and the Senate. The negotiators of the 1967 proposed canal treaties ignored this Constitutional provision (which was observed in the 1955 treaty calling for the transfer of valuable railroad property to Panama), and continue to ignore it in the current negotiations. The House of Representatives is jealously guarding its prerogatives, and is alert to the indicated Constitutional requirement, as we can see by the large number of Panama Canal sovereignty resolutions that have been introduced in the House opposing any surrender at Panama. The Canal Zone and Canal are a territorial possession and property of the United States and so they must remain until the Congress decrees otherwise.

More than 30 years have passed since the authorization of the suspended Third Locks Project. The original plan has been improved in the light of experience in World War II. The Panama Canal is in nowise obsolete but it is approaching capacity saturation. The needed additional capacity and operational improvements can be secured through the simple and relatively inexpensive expedients of constructing wholly within the Canal Zone additional and adequately larger locks and providing additional water for lockages and maintenance of channel depths.

The situation on the Isthmus represents great challenges to the United States and its leaders. The only reasonable course for our government to follow is the continued maintenance of our sovereignty over the Canal Zone and the major modernization of the present canal under existing treaties embodying the principles of the Terminal Lake solution. To bring this about, Representative Flood and I have introduced identical measures in the House and Senate, which would authorize completion of construction of the Third Locks Project adapted to include the principles of the Terminal Lake design.

This program will benefit Panama and the entire Western Hemisphere as well as the United States and world shipping. It will terminate the long conflict and confusion of concepts known as the "battle of the levels" and enable the engineering planners to concentrate on securing the best canal for the transit of vessels at the least cost and without treaty complications.

If the Panama Canal is to remain in continued operation and grow in efficiency, then it must remain under the control and sovereignty of the United States. The Terminal Lake Third Locks Plan will give us the necessary modernization, so it is up to Congress to see that the United States maintains the necessary control.

To assist in these matters, I urge you to write your Senators and Representatives in support of these two bills—S. 734 and H.R. 712.

REMARKS OF MAJOR GENERAL HOLLE INTRODUCING CONGRESSMAN FLOOD

Mr. President, Ladies and Gentlemen: As a former official of the Panama Canal, I have followed closely over many years various developments concerning Isthmian policy matters, particularly the parts played by Members of the Congress. Among them our second speaker has proved himself one of the most outstanding leaders in the history of our great tropical waterway.

His career is truly distinguished and he has had responsible positions in the Government of Pennsylvania and important assignments in the Congress, where he is now serving his 12th term.

His Congressional service included membership on the Committee on Foreign Affairs in which he specialized on Latin America and currently on the Committee on Appropriations with the most responsible assignments as a member of the Subcommittee on Defense and as Chairman of the Subcommittee for the Departments of Labor, Health, Education and Welfare and the Office of Economic Opportunity.

Among his notable achievements in the Congress was his leadership as Vice Chairman of a Special Committee that investigated the mass murder of thousands of Polish army officers by the Soviet during World War II; also his brilliant leadership on Isthmian Canal Policy Questions.

He is not only one of the most able, independent, and courageous Members of the Congress as it now exists but, in all truth, one of the most able, independent and courageous Members that has ever served in the Congress. His contributions have been historic.

I now present Congressman Daniel J. Flood of Pennsylvania, who will make further remarks on Panama Canal modernization.

REMARKS ON PANAMA CANAL MODERNIZATION BY HON. DANIEL J. FLOOD

Mr. President, Members of the Panama Canal Society of Washington, D.C., and Friends: The address that you have just heard is superb and most timely. In comprehensive yet simple terms it recognizes and summarizes the crucial elements in an immensely complicated subject. There is little that I can add to its ably developed points except one word: amen.

As many of you may know, I have made many addresses both in and out of the Congress concerning canal problems. Among the questions that I am frequently asked is this. How did you become so much interested in Panama Canal matters? The answer is brief.

During my boyhood in Wilkes-Barre, Pennsylvania, former President Theodore Roosevelt used to be an occasional house guest at my home. He spent many hours telling me about the Panama Canal and some of the difficulties that he faced in launching the vast project. One of his most telling points was the absolute necessity for an American canal under United States control. That great man became my youthful ideal and in consequence I have devoted a lifetime of study to the canal subject, which has included many visits in all the Central American countries and Cuba, numerous consultations with various canal experts in and out of government service, transits of the canal on board vessels, and viewing the adjacent terrain from a helicopter. When all the angles in the question of increased transit facilities, including defense, economics and marine ecology, are realistically evaluated, there is only one solution—the major modernization of the existing Panama Canal according to the time tested terminal Lake-Third Locks proposal.

Especially interesting to me in Senator Thurmond's address was what he terms a possible confrontation between the governments of the United States and Panama. Because the Canal Zone sovereignty question is basic, I wish to elaborate somewhat, for Panamanian politicians are continually contending that Panama's geographical location is its greatest natural resource and that it should be exploited by that country for increased benefits from canal sources.

While it is true that the geographical location of Panama is strategic, this fact is also the greatest weakness of that small and defenseless country. Because of its position, the Isthmus of Panama has been an objective for plundering attacks since the Age of Discovery; and it probably always will be. In fact, predatory powers now seek to drive the United States from the Isthmus. History has repeatedly shown that only a strong free country can be entrusted with the control and operation of any interoceanic waterway as has been strikingly illustrated in the case of the Suez Canal.

In 1903, following Panamanian independence, the United States was the first nation to recognize the new government and, most appropriately, France, the country that started the construction of the Canal, was the second.

In the Treaty of November 18, 1903, the United States assumed the responsibility of guaranteeing Panamanian independence. Although that guaranty was revoked in the 1936 Treaty at the request of Panama, history also shows that the Isthmus can remain free

only as long as the United States retains its sovereignty over the Canal Zone. The day we leave the Isthmus, the Panama Canal would become another Suez Canal and Panama another Cuba under complete Soviet domination.

In the exercise of their grave responsibilities on the Isthmus, the United States and its people have never been enemies of Panama but have always wished that country and its people the greatest possible independence and prosperity.

During recent years our situation as regards the Canal has suffered grievously because our Executive officials have constantly sought to appease unrealistic demands of Panama under the Panamanian claim of the national dignity of the fatherland and the like but have failed to point out the defects of these demands. The actual situation to be met is whether the United States or the U.S.S.R. should own and operate the canal. As to the consequences of Soviet Control, the cruel fate of Hungary, Cuba, Czechoslovakia and other satellite countries under communist domination should be compared with our own enlightened treatment of the Philippines and Puerto Rico.

It has often been said that Panama is a land of endemic revolution. Unable to retain its constitutional government since 1968, it has had a provisional revolutionary government of increasingly leftist composition with full suspension of the Panama National Assembly and other rights of a free and independent people, including freedom of the press.

Though this provisional government repudiated the proposed 1967 canal treaties, it did succeed in bringing about a resumption of negotiations for new canal treaties. The same United States official who headed the negotiations for the discredited 1967 treaties and was also chairman of the recent sea level canal studies, is again our chief negotiator for the current negotiations that would eliminate United States sovereignty as regards the Canal Zone. Who can predict what government will be in power the day after arriving at any new agreement? Even if ratified by the United States, such agreement might be nullified by a succeeding government in Panama. Certainly the security of the United States, Panama, and the Western Hemisphere is not a matter with which to trifle.

When the sovereignty question is reaffirmed the way will be open for our government to undertake the major modernization of the existing Panama Canal as provided in pending legislation. Unless the present cloud of confusion over sovereignty of the Canal Zone is lifted the people of our country will never permit their tax money to be expended on a project that they will not control but that would be subject to expropriation as was the Suez Canal.

No matter what the treaty making power of our government, consisting of the President and the Senate, may do in this connection, the assurance can be given that the House of Representatives will never consent to the surrender of either the Canal Zone or Canal.

As regards the perpetuity clauses in the 1903 Treaty that certain present generation Panamanian politicians and Spanish language newspapers in Panama so strongly condemn, there are some angles that need clarification and emphasis. The grant in that treaty was not a lease as many superficial writers assert but an act of a sovereign government that conferred on the United States full sovereign powers over a definite area in perpetuity for the specific purpose of the construction of the Panama Canal and its perpetual maintenance, operation, sanitation and protection. Most significantly, this grant of sovereignty to the United States was to the entire exclusion of the exercise by Panama by any such sovereign rights, power or authority. In addition to the grant for which Panama was paid, the purchase by the United States of all land and property in the Zone mentioned by Senator Thurmond further strengthened our legal position on the Isthmus making our country the owner in fee as well as the political sovereign of the Zone territory.

As regard the previously mentioned perpetuity clauses, Panamanian detracters never mention the important facts that they apply with equal force to the United States as well as to Panama and that there is thus provided throughout the future the perpetual protection that Panama must have to endure as an independent nation. Under those clauses the United States is obligated to operate the Canal in perpetuity, which fact, as previously indicated, serves as a guaranty of perpetual independence and economic well being of Panama. These are great advantages that should not be ignored or minimized by Panama, for they have enabled that country to attain one of the highest per capita incomes in all of Latin America, with Canal Zone sources in 1969 having spent some $161,000,000 in Panama, which included the salaries of about 16,000 Panamanian employees; and these expenditures are increasing. In addition, there have been gifts and loans to Panama for educational purposes and such projects as the Darien Highway and other beneficial undertakings, among them the Thatcher Ferry Bridge. No doubt there will be more in the future as Panama develops.

As Senator Thurmond so aptly stated, the Panama Canal is in another grave crisis. Upon its outcome will depend not only the vital questions of sovereignty over the Canal Zone and the form of canal modernization but as well as the security of the entire Western Hemisphere, which is now under communist revolutionary attack. One of the openly proclaimed objectives of communist power has been wresting control of the Panama Canal from the United States through the process of nationalization by Panama or internationalization. The Congress is alert to these dangers as shown by recent actions in the House opposing the transfer of any United States sovereign rights, jurisdiction, territory or property on the Isthmus to any other sovereign nation or any international organization.

Of the two proposals for surrender, that for internationalizing the Panama Canal is more sinister. It has a long history dating back to a 1917 declaration by John Reed, a notorious American communist, who now lies buried with high Soviet honors in Red Square by the Kremlin Wall.

It is uniquely fitting to state that the danger of internationalization was promptly recognized by the dynamic American statesman who had played a key role in the acquisition of the Canal Zone and in the construction of the Panama Canal. On December 2, 1918, soon after the Bolshevik Revolution in Russia, he wrote: "The Panama Canal must not be internationalized. It is our canal; we built it, we fortified it, and we will protect it, and we will not permit our enemies to use it in war. In time of peace, all nations shall use it alike but in time of war our interests at once becomes dominant."

Those words of that great American apply with even greater force today. They are the words of Theodore Roosevelt.

REMARKS OF VICE ADMIRAL SETTLE INTRODUCING DR. BRIGGS

Mr. President, Ladies and Gentlemen: For many years it has been known that certain forms of marine life have moved from one ocean to the other through the fresh water Panama Canal, but these migrations have not been in sufficient volume to cause serious concern on the part of biologists. The proposal for constructing a sea level channel across the Isthmus has introduced new angles to the problem causing great anxiety on the part of many respected scientists because of the ecological hazards involved in such salt water channel.

Our third speaker, one of the nation's leading authorities on marine biology, has made extensive studies of the environmental changes that would follow the opening of a salt water channel across the Isthmus. As a consequence he has published authoritative articles in scientific magazines and lectured extensively in an effort to alert the nation to what he considers poses a conservation problem of enormous magnitude that would be caused by the construction of a canal of sea level design.

It is my privilege to present Dr. John C. Briggs, Professor of Biology, University of South Florida at Tampa, who will speak on the vital subject of the "Ecological Dangers of a Sea-Level Canal."

ECOLOGICAL DANGERS OF A SEA-LEVEL PANAMA CANAL

(By John C. Briggs)

In December, 1970, the Atlantic-Pacific Interoceanic Canal Commission presented its final report and recommendations to President Nixon. Copies of this voluminous (seven volumes) report became available to the public in May, 1971. In the report, the Commission stated that, so far as they had been able to determine on the basis of limited studies, linking the oceans at sea-level would not endanger the commercial or sport fish on either side of the Isthmus. The Commission also reached the conclusion that the potential for transfer of harmful biota and hybridization or displacement of species in both oceans exists but the risks involved appear to be acceptable. Unfortunately, these statements not only have no scientific basis but are inconsistent with the findings of a National Academy of Science Committee which examined the ecological implications of the proposed canal. In essence, the Committee warned that "great danger" could result and that if the canal had to be built elaborate precautions would be necessary to prevent migrations by marine animals.

The tropical marine waters of the Americas are divided by the New World Land Barrier, of which the Isthmus of Panama is a part, into two major segments, the Western Atlantic and the Eastern Pacific. This separation has existed since the latest Pliocene or the earliest Pleistocene—approximately three million years. During this time, sufficient evolutionary change has taken place so that the great majority of the animal populations on each side have become distinct from one another; that is, they have developed into separate species.

The marine faunas on either side of Central America are not only exceedingly rich, in terms of the diversity of species, but are relatively poorly known. At this time, one can only make a very rough guess as to the total number of species that are involved. The Western Atlantic portion appears to have the richest fauna. It has been estimated that the western Caribbean alone supports about 600 species of shallow water fishes and about 7800 species of invertebrates.

On the Eastern Pacific side, the Gulf of Panama and its adjacent waters are probably inhabited by about 400 fish species and about 5200 invertebrate species. In considering the possible effects of a sea-level canal upon this rich marine life, it is important to note that most of the fishes are, at least at some stage in their life cycle, highly mobile. Furthermore, 80–85 percent of the tropical, benthic invertebrates possess pelagic larval stages that are capable of moving, or can be transported by surface currents, for con-

siderable distances. This means that a continuous, saltwater passage across Panama would present a migratory route that could be utilized by the majority of animal species on each side. What would be the consequences of such migrations?

As the distributional patterns of many animal species have become better known, an important zoogeographic principle has emerged. It is probably this principle that, in large part, determines the relationships of the major zoogeographic regions of the world. It may be stated as follows: Wherever two regions are separated by a barrier that is partially passable, the region with the richest (most diverse) fauna will donate species to the region with the lesser fauna but will accept few or no species in return. This principle appears to operate just as effectively in the marine environment as it does on land.

Although it would be a mistake to make a detailed prediction about the effects of a sea-level Panama Canal entirely on the basis of our experience with the Suez Canal, the latter passage, which was opened in 1869, clearly demonstrates the operation of the principle stated above. To this date, no less than 30 species of Red Sea fishes and 110 species of invertebrates have succeeded in migrating through the Suez Canal to establish themselves in the eastern Mediterranean. But, with the single exception of one fish species that is especially adapted to live in high salinity lagoons, no Mediterranean animals have been able to successfully invade the Red Sea. The Red Sea, a part of the great Indo-West Pacific Region, possesses, a considerably richer fauna than the Mediterranean.

The fact that relatively few Red Sea species have invaded the Mediterranean in somewhat over 100 years can be explained by the existence, for most of that time, of salinity and temperature barriers that severely restricted migration through the Suez Canal. In the case of the proposed Panama sea-level canal, no such barriers are anticipated so that rapid and numerous migrations may be expected.

Before making a prediction for Panama, one needs to consider a second zoogeographic (and ecological) principle that appears to be generally applicable. Along most mainland shorelines, as in most mainland terrestrial areas, each major habitat is probably supporting its maximum number of species; that is, the species diversity has become attuned to the local environment so that ecological saturation has been achieved. In such situations, the introduction of additional species can only temporarily increase the diversity and, over a period of time, the number of species present can be expected to drop back to its original level. This means that a species that has been introduced or has migrated into a new area may either survive in its new home by eliminating a species already there (its ecological equivalent) or it may meet so much resistance by the native species that it will be unable to establish itself.

In the advent of a sea-level canal across Panama, we may expect that, over the years, several thousand Atlantic species of shallow water, marine animals will succeed in reaching the Eastern Pacific and vice versa. Since these thousands of species that would be coming into contact for the first time are, for the most part, distinct from one another, we may expect that they would tend to enter into competition rather than hybridizing. Considering that the tropical Western Atlantic has a richer fauna than the Eastern Pacific, it can be predicted, in accordance with the two principles stated above, that (1) the Atlantic species would prove to be the better competitors and (2) they would eventually eliminate their Eastern Pacific relatives.

It is the prospect of a huge and irrevocable loss of perhaps thousands of species native to the Eastern Pacific that constitutes the major biological problem presented by the Panama sea-level canal. In contrast, the fauna of the Western Atlantic may remain relatively little affected. However, there do exist in the Eastern Pacific a number of marine animals that originally came from the Indo-West Pacific, the largest and most diverse of all the tropical Regions. Among them are such animals as the poisonous seasnake, *Pelamis platurus*, and the crown-of-thorns starfish, *Acanthaster planci*. It is expected that these animals would be capable of migrating through a salt-water canal and, once having gained access to the Atlantic, would establish themselves in that ocean.

Although it is very difficult for the biologist to accurately predict the results of invasion by a given animal species, many cases are known where the invader has undergone enormous population increases. The probability of such a population explosion by an introduced species appears to be greatly increased in areas where there are no native species occupying similar niches. At present, there are no seasnakes in the Atlantic so the fish species there have not had to cope with this kind of predator. In a like manner, the coral species, that have built up the extensive coral reefs that are found from Florida to Brazil, have not been exposed to the actions of a voracious coral predator such as the crown-of-thorns starfish.

A small-scale example of what may happen when a new kind of predator gains access to a virgin area was provided by the sea lamprey, *Petromyzon marinus*, when it migrated through the Welland Canal to reach the western Great Lakes. The lamprey underwent a rapid population increase and decimated the native lake trout and whitefish populations. The damage to the commercial fisheries for the latter two species amounted to several million dollars and the United States and Canada had to spend additional millions in order to bring the lamprey under control.

There is no other place in the world where a single engineering project would be likely to have such drastic biological effects. Once a unique animal species disappears from the face of the earth it is gone forever and no amount of recrimination can replace it. Do we owe it to ourselves and our posterity to preserve as much of our natural heritage as possible? If so, let us consider very carefully the biological, as well as the economic, diplomatic, and national defense consequences of building a sea-level canal.

The following words, written by a distinguished biologist named George Gaylord Simpson, seem to be suitable for this occasion: "It is the capacity to predict the outcome of our own actions that makes us responsible for them and that therefore makes ethical judgment of them both possible and necessary."

CONCLUDING REMARKS BY CAPTAIN DUVAL

Members of the Society and Guests: You have just heard notable addresses by outstanding authorities on their respective subjects. If and when published, they will add materially to the cumulating literature on the matters discussed.

On behalf of this society, I express the fullest appreciation to our distinguished speakers and all others who contributed toward today's program, including those responsible for the musical prelude.

Our next annual meeting in 1972 will likely be in honor of John F. Stevens who served as Chief Engineer of the Isthmian Canal Commission during the designing period of the construction of the Panama Canal, 1905–1970. His great contributions were the development of the plan that was adopted by the President and the Congress and bringing the project to the point where its success was a certainty; thereby winning great fame as the basic architect of the canal.

To sponsor the election of Stevens to the Hall of Fame for Great Americans there has been formed the John F. Stevens Hall of Fame Committee of New York of distinguished membership, with Governor Thatcher as an honorary chairman. The next election for this great honor will be in 1973.

General Goethals, Stevens' successor as Chairman and Chief Engineer of the Isthmian Canal Commission, long after Stevens left the Isthmus, described the Panama Canal as Stevens' "greatest monument." The story of his work on the Isthmus was recently told by David G. McCullough in a major article in the June 1971 issue of *American Heritage* under this rare title, "A Man, a Plan, a Canal, Panama!"

Again and again, I thank you for your interest, presence and support.

DR. CLAUDE L. FLY

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, on September 23, 1971, I had the good fortune of being a dinner guest of Dr. Claude L. Fly, of Fort Collins, Colo., at the dinner meeting of the American Society of Agricultural Consultants held here in Washington. It was, of course, an occasion where the officers and interested members of this group met with their ladies at an evening meeting relative to the problems of the society, but more or less for the purpose of conviviality and listening to and paying honor to one of their members who had been called upon to give to his work and his country more than is usual in the line of duty.

Dr. Claude Fly is a resident of my congressional district. He is a distinguished and recognized leader in his profession. I secured from him permission to place his remarks of the evening in the RECORD. In giving me this permission, he stated as follows:

It must be kept in mind, however, that I am not an expert on South America. Much of the data given in my talk came through those sources opposed to U.S. programs in South America because they explained feelings leading to my kidnapping. We have many good and productive programs going along smoothly which should not be discredited."

The address, however, is, in my opinion, very valuable and should be made a part of those records which provide information not only for the Members of Congress, but for others who are interested in our relations with the peoples of Central and South America. A personal experience such as that had by Dr. Fly can, if received in the proper perspective, help us in our evaluating of important international affairs.

I am glad to recommend to my colleagues the reading of the interesting and thought-provoking remarks of this fine American citizen who was working not on the governmental level, but close to Government circles of Uruguay and the United States.

TALK GIVEN BEFORE THE AMERICAN SOCIETY OF AGRICULTURAL CONSULTANTS, WASHINGTON, D.C., SEPT. 23, 1971

(By Dr. Claude L. Fly, Fort Collins, Colo.)

Mr. Chairman, Members of the Society and Guests: Those of you who have read the September issue of Readers Digest know that one year ago at this time I was a prisoner of a rebel group in Uruguay.

About 9:30, the morning of August 7 last year, five roughly dressed Uruguayans burst into my small office on the outskirts of Montevideo. All five drew pistols. They grabbed my arms, shoved me down the hall to an old battered pickup, blindfolded me, tied my hands and feet, pulled a long jute bag over my head, threw me into the pickup and drove away.

Thus began for me 208 days of "Hell" . . . terror, loneliness, physical suffering and the constant threat of death as I was held in a dank sub-basement inside a wire cage. Having no contact with the outside world . . . no radio, newspapers or even a watch, and no sight of daylight . . . I lost all reckoning as though suspended in time and space. Under these circumstances I began the fight of my life to maintain sanity and to keep my strength. I set tasks of reading, writing, exercising and praying on as regular a schedule as I could devise.

Gradually this paid off in released tensions and in freedom from harassment. Offers were made to the Government for my release. At first they offered Dan Mitrione, Aloysio Gomide (Brazilian Consulate) and myself for exchange for Tupamaro prisoners in the huge Government prison . . . but got nowhere. (Now most of them escaped as you no doubt have read). Later they offered my release if news media would publish a proclamation. The GOU threatened to close all media if they complied. International Red Cross tried to negotiate my release but were blocked by the GOU and stupidity of the Tupamaros who robbed a large jewelry store on the day before the press had agreed to print the article.

On February 22, 1971, I suffered a severe coronary. For seven days the Tupamaros brought their doctors into the cell and treated me inside the steel wire cage. On the eighth day, they battered a hole in the stone-mortar wall, took me out onto a stretcher and arranged to have me carried to the Hospital Britanica in a Volkswagen micro-bus. On March 28 I was flown home and have since been recuperating. More details of the 208 days you will read in the Readers Digest Article so I will not dwell on these. Only when reaching home, did I learn of the great out-pouring of prayers, sympathy and offers of help from all over the world. Your prayers answered through the benevolent Grace of Almighty God have made it possible for me to be here tonight. And thanks again for Geoffrey Jackson's release last week.

Many times I have asked myself the question, "Why Did This Happen To Me, Why Me?" These questions rang through my head then and are still only partially answered. I learned some answers through books and data brought to me in the prison by the Tupamaros and much since returning to the States. Some of the apparent basic causes or reasons for such revolutionary actions in Latin America I shall pass on to you for what they may be worth.

First off, we encounter wide contrasts between the northern and southern hemispheres of the American Continent. Here in the States our worries are more often directed toward the superficialities of our, comparatively, luxurious living. We worry about golf grounds, green belts, parks and swimming pools to accommodate our growing population and increasing hours of leisure. Some environmental ecologists dream of man living in complete harmony with all nature in a government supported "Garden of Eden". Health programs are being advocated that would provide full hospital-medical-doctor care for all with the burden to be carried by the government. Endless maneuvers and discussions stress insuring that in every walk of life and for every race, creed or sex there shall be equal representation, equal privileges and comparable income, sometimes without due regard to qualifications or ability. Now who can say that these might be good and worthy goals of the richest country in the world with the highest technological development and highest standards of living?

But what of our neighbors to the south? Some 265,000,000 people live in the Caribbean, Central and South American area composed of 21 small to large nations. The per capita annual income ranges from 70–800 dollars and 15 countries have less than 300 per capita compared to our more than $2500. It is estimated that 90% of the people in Peru and 50% of the people in Dominican Republic are in dire poverty. In 18 countries, 90% of the farmers are crowded onto 10% of the land while 10% (wealthy hacendados) live luxuriously on 90% of the land. Nearly half the population scrabble for existence on these small uneconomic parcels of land. Mining, another chief source of income often pays pitifully low wages; reported to have been as low as 17 cents/day in Paraguay.

It is said that industry is controlled by ruling oligarchies or by foreign big business interests such as the United Fruit Company. Only recently, as in Chile, Peru and Bolivia, have the countries begun to wake up and gain control of their own natural resources. Production is low and sporadic. With 30% more people and several times more land, the output per person is only 1/12 that of the United States.

Inflation has been rampant! Using 1953 as a base with an index of 100, an international survey indicates USA as 117 in 1965, Europe as 127–215, Mexico as 176, and other South American countries as 123–4,489! In Brazil, 20 bolsas of coffee would buy a Ford car in 1935 but in 1969 it required 200 bolsas to buy a Ford. Uruguay had only 0.3% increase in Gross National Product in 1965 but an 88% increase in the cost of living. Uruguay has devalued its currency at least six times and Brazil 12 times. Salaries were frozen in Uruguay but the costs of food and other necessities doubled.

These are only some of the problems. The Latin Americans are being robbed by their own rulers. Since World War II, it is estimated that about 25 billion dollars have been sent abroad. Past leaders, it is reported, have absconded with huge sums: Peron of Argentina—$700 M.; Batista of Cuba—$250 M.; Jiminez of Brazil—$250 M.; and Aleman of Mexico—$800 M. It is estimated that the 1.5 billion dollars are stolen annually from the public funds. This is 50% more than the Alliance for Progress felt they needed to assure development and progress in Latin America. Thus if the peoples of these nations could stop the thieving by their own rulers and could have control of their own natural resources, they could promote development and achieve economic stability without gifts and loans of huge sums from USA and International Agencies.

As a result of long-time, mis-directed economic and social programs, education is at the lowest level imaginable: 2.7% have completed grade school, 0.4% high school and only 0.1% have entered colleges and universities. Some countries have 50–60% illiteracy (70% in Dominican Republic). The average schooling is reported to be less than 2 years in L.A. as a whole.

Health conditions are worse than our most squalid ghettos and backwoods. Except for Uruguay and Argentina, there are over 3000 people for every doctor (the range is 1900–9800). Life expectancies range from 29 to 58 years and is below 50 years in 16 countries. Compare this to a doctor for every 780 people in the USA and a life expectancy of over 66 years.

Now you are asking yourselves . . . but what has this to do with me and my experience . . . Where is the USA involved? "We hate your country for what it has done to South America", my guards hissed. Then they brought me data to show that in Dominican Republic, 50% of the GNP was controlled by U.S. interests. We were giving $300,000 per year military aid to Haiti and from 1961–65 pumped $30 M. into this little country to maintain Duvalier's bloody dictatorship. In Venezuela, USA oil interests controlled 90% of the GNP and invested capital. In 1961, USA Big Business invested $500 M. and took home $770 M. USA profit-taking in L.A. countries had been on the order of 100–250% compared to 35% for Europe and 17% for Great Britain.

The United Fruit Company has dominated both business and politics in past history in Guatamala, Honduras, Costa Rica and Panama and to some extent in Ecuador and Colombia through its banana monopolies. External debts have sharply risen in Latin America countries because the values of raw goods sold have decreased on world markets while imported manufactured goods have sharply risen in prices. The USA is accused of spending over 80 M. dollars in military aid to these countries . . . much of which is used by the oligarchies and military dictatorships to maintain the masses of people under control.

A letter was mysteriously passed to me while I was leaving the Hospital Britanica and returning home. The writer had signed a false name to avoid possible police retribution. Let me quote from this letter:

"I am not a Communist or Tupamaro . . . but a Catholic, a citizen with a clear feeling of patriotism . . . . . I understand your feelings (for) I, personally, have been deprived of liberty twice . . . You people should know more with respect to the political regimes under which we Latin Americans live, and how these abject regimes are stimulated and reinforced by the USA . . . . I could give you great details of the North American intervention in Guatemala . . their favor of the insatiable dynasty of Samoza of Nicuaragua, their support of the crafty Trujillo of Dominican Republic . . . and participation in the 1964 Coup in Brazil.

What would you think and how would you react if a Colossus, superior to your country in men, wealth, weapons and economic resources, would invade your land to protect their own interests . . . and replace presidents . . . without concurrence of your own people?

"Our dictatorship has already assassinated three students, one city worker and three modest citizens . . . several Tupamaros who were wounded were left to bleed to death . . . Uruguay lives under a permanent stage of siege . . . freedom of press no longer exists . . . half-dozen newspapers and three weeklies have been closed in the last 3½ years . . . dictator Pacheco has repeatedly failed to recognize resolutions of parliament and has come to menacing their dissolution. Judicial power has also been usurped . . . hundreds are imprisoned for political reasons. (NOTE: NEARLY 150 (men and women) Tupamaros have escaped from the Uruguayan Penitentiary in the last few weeks) . . . let it be known that the police and the army use the weapons and equipment your country has given them against our own people . . . even womens' protest groups have been put down by clubs and gas of North American origin.

". . . the causes of (revolutions) have been very deep and painful. . . . It is not a form of delinquency . . . our revolutionist thirsts for justice and the (recognition) of deep human values. (Our) revolution proposes to put an end to inequalities and injustices.

"Your prosperity is nourished in our sweat, blood and tears. . . . Your trusts grow like giant vampires feeding on the blood of millions of Latin Americans . . . immoral government men take advantage . . . to sell our people . . . to fill their pockets. . . . Uruguay's present government is surely the most corrupt . . . in all history . . . this panorama of corruption (NOTE: HE GAVE MANY EXAMPLES) is the (result) of those who

have (the power) and intend with desperation to perpetuate themselves.

"You have been an involuntary victim (and) ought to know these things . . . tell your citizens the Uruguayans will not give up . . . that (they) struggle resolutely. I hope that you understand us . . . that your bitter experience enriches your spirit and enlightens your mind". (end quote)

NOTE: Words in parentheses inserted for clarity.

This impassioned appeal, typically Latin American, was not read by me until I had recuperated somewhat at Fort Collins. By this time I had read up on much of the current happenings and knew that many of these accusations were now of past history.

For Latin American Governments *are changing;* and so are the fortunes of American investors! The September Newsweek notes that the Cerro Mateso nickel deposits of Colombia must now pay more to the country and ownership revert to it in 25 years; Anaconda and Kennecott copper companies' Chilean holdings have been nationalized and International Telephone and Telegraph is dickering for compensation for its 150 M. dollar investment. The Andean Agreement signed by Chile-Ecuador-Peru-Colombio-Bolivia stipulates that any foreign Company must be prepared to turn over its investment in 15–20 years; even such investments as banking, insurance, utilities and communication media are being nationalized.

These movements result from the resentment of the past behaviour of U.S. firms, who behaved as though they were exempt from local laws and taxation and whose history includes alleged manhandling of host governments through bribery, economic coercion and, occasionally, military intervention.

Many U.S. companies are pulling out . . . in Argentina in the last eight months, says Newsweek, over 400 M. dollars of planned investments have been cancelled or postponed. Some companies are accepting management contracts for fixed fees or profit-sharing. Under these new situations, companies must pick and choose carefully as to country and contract . . . they will find it harder to make that "buck". Investment in Latin America will remain a challenge and an opportunity however, to those who heed the warning and prepare to give as they take. Let me add, specialists will continue to find work opportunities there but must be more alert to these changing situations.

On returning to the states, I was amazed to find that I was not the only consulting Agronomist having trouble . . . not only Agronomists but Engineers, Chemists and a host of others in the technological and scientific fields. In our modern world, where science and technology have developed wealth and production capabilities beyond our greatest dreams, there has now arisen public resurgence against this formerly, highly respected sphere of activity. We are being blamed for all the ills and inequities of our social, economic and political life. Continuation of Science and Technology as pacemakers for modern society is being challenged by sociological and political elements led by non-technologists who hold little sympathy for our past performance.

Editor Hallowes of Sigma Xi (summer edition) writes, ". . . highly visible concerns of Society . . . environment, housing, medical care, Vietnam War (others) have placed Science and Technology in direct competition with these areas for its share of the budget appropriations. . . ." Dr. Venable, former President of the Institute of Chemists, speaks of difficulty as chemists become prominent among the recently unemployed. Dr. Koch, Director of the Institute of Physics, states that 1970 was a catastrophic year in the employment history of physicists. Hallowes further states, ". . . unemployed scientists and engineers, the financial plight of some colleges and universities, the difficulties of placing graduates . . . are manifestations of the troubled state of the Science and Technology Community—ironic that (these) which produced such meritorious products in profusion should now fall on hard times."

The summer issue of Farm Technology states, "The recent revenue-sharing program proposed by the President almost eliminated the Extension Service." His new proposal of four comprehensive Government agencies would split USDA four ways. Hanson in Crops and Soils for August–September says, ". . . concern over environmental quality has brought us to the point (that) strict controls may be placed on agricultural chemicals . . . (even though) responsible agriculturists agree that . . . suitable alternatives will come only with considerable effort and time." He says there are literally thousands of fungi-caused diseases, plant-damaging types of nematodes, insects and weed pests . . . (all of which could be enemies of our agriculture) which could be released to run rampant should there continue, as described by Dr. Richard Kenyon . . . "the disturbing growth of the superficial idea that to halt scientific research and technology will . . . bring back what we recall from dreams of the past as a simple, lovely world (and) make Society better than it ever was". The Associate Editor of ASAE Journal wrote recently, "If pest control is ecologically integrated (presumably by non-technical environmentalists) who assumes responsibility for integrating test programs . . . and for over-seeing the approved usage of chemicals? . . . and one might add for compensating farmers for loss of crops and livestock, and the economy for serious drops in food and fiber production if this movement gets out of hand?

Why all this criticism of the Agricultural Specialist and his fellow scientists. R. J. Kenard, The Chemist, Aug. '71, says, "The professional has more than adequately met all tenants of professionalism except . . . that of social responsibility." Dr. Kenyon stated, ". . . One can see quite large social costs as a result of not taking the steps we might in effective application of technology because of highly emotional attitudes building barriers against Science and Technology. To all these complaints I say we Agricultural Consultants are not doing a complete job if we turn our back on public opinion; we need to carry deeper understanding to them and gain a deeper sense of the public's attitudes toward Society's problems."

Dr. Harold Meyers, U. of Arizona, said last year at Tucson, "If there ever was a time when aggressive and respected agricultural leadership was needed on the national scene and on a world-wide basis, it is today." Dr. Wm. F. Hueg said at this same meeting . . . "changes that Congress will make over the last third of this century will lead to changes in agricultural production and environmental quality . . . who can better influence such decisions than those who have the disciplines of science?" Who can better guide pollution control and improvement of our environment than those who have the scientific knowledge and technology to understand what is involved and to lay down a reasonable course of action? We must assume, therefore, greater roles as citizens in helping influence these decisions. As a professional Society and as individual Agricultural Consultants we must be prepared to take an active and oftentimes changing role to meet the challenges of the *seventies.*

May I add that the challenge is just beginning in the seventies! It will accelerate as we approach the year 2000, only 30 years from now, when, UNFAO insists, we must be able to produce at least 2½ times our present level in order to feed 6.5 billions of people instead of our present 3.8 billion. Our USA surplus of 25–30 million acres of agricultural land will disappear as urbanization, recreation, wildlife, industrialization and transport needs eat up 52 million acres as projected by some forecasters. Add to this the estimate of Council on Environmental Quality that environmental controls will cost 105 billions of dollars by 1975 and you will begin to see the coming conflicts between the so-called environmentalists and the agricultural technologists and other specialists. This Conference has this problem as its theme. Dr. Frank Viets of ARS estimated that we can add to our present productivity the equivalent of 20 million acres by full application of sound technology. Even this will leave us still scrambling for another 30 million acres of good agricultural land by the year 2000 if all these forecasts have validity. I ask you, will planned land use become a public policy in which we as Agricultural Consultants, together with Institutions of Scientists, will have a voice and influence . . . or will agriculture be left with reserves of good usable land? All agriculturally oriented organizations and specialists must rise to this challenge.

At this annual meeting of the American Society of Agricultural Consultants, I have suggested to your Executive Secretary and will recommend at the business session tomorrow, the establishing of a standing committee on Pollution and Environmental Control to coordinate the activities of this Society with other agricultural groups and the U.S. Department of Agriculture on these important aspects of our modern age, as well as to establish guidelines helpful to the individual Agricultural Consultant participating in these fields.

While I was imprisoned by the Tupamaro rebels, I had plenty of time to do some personal introspection and deep thinking on Life's Problems. I wrote, while there, an article on Freedom vs Security and will close by passing on to you a couple of basic points from these thoughts:

I. First and foremost, it came to my mind as I sat in that humid cell, that all people have *right* to sufficient *food, shelter,* and *clothing* to prevent physical suffering and stress . . . and more if opportunity is available.

II. All people *should,* by right of human values, *have Freedom*—freedom to worship, freedom of speech (including freedom from coercion of communication media); freedom of education, freedom to move about and to choose or develop one's own vocation; and generally, to direct one's own life . . . provided, however, that the *exercise* of these freedoms be *circumscribed* by and consistent with concurrent responsibilities to give others the same or equal rights of freedom, either by mutual consent or under Law.

The multiplicity of problems, of conflicting interest, jealousies and hatred which must be overcome to achieve these basic rights for the peoples of the world are so overwhelming as to create a feeling of helplessness. I sent my little essay on Freedom vs Security to some very old friends of mine . . . one a veteran of World War I . . . and asked for their opinions. The old veteran wrote . . . "you will see that the necessity of a force of humans to see that it (The program to achieve the two basic desires of Freedom and Security) is carried out, makes it subject to failure." The older I get, he went on, "the more I believe in the old saying, 'There ain't nuthin' wrong with the world . . . it's just the danged fool people in it'."

Somehow I cannot share this gloomy pessimism. In the cell in Montevideo I had written:

"Certain attributes of man's behavior can be appealed to and influences toward achievement of a world community where peoples and nations can work together for the common good of all:—

1. We all want these basic necessities of life and the freedoms; we want *better* opportunities for our children . . . and *we do not want war.*

2. We all want to belong, to feel needed and wanted, and we all have an urge to accomplish something.

"What greater glory than that these mighty energies and forces latent within us be directed toward achieving peace with justice, and world-wide relief from suffering and want."

And so, in my own life, I plan, as God is willing, to continue sharing my own technical knowledge and experience with peoples of these under-developed and developing countries, and using my professional capabilities to make life better for those who employ my services.

Ideas which I had and recorded in my prison cell on Freedom vs Security are not presented as a panacea for all that ails this old world . . but hopefully some may strike a chord of interest and sympathy. Many books have been and can be written on these two subjects—or one can condense their meaning into a few words as Christ did 2000 years ago when he said, "Thou shalt love the Lord with all thy heart, mind and soul; and love thy neighbor as thyself."

AMENDMENTS TO H.R. 9212

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, there follows the text of two amendments which I propose to offer to H.R. 9212, the black lung amendments bill scheduled for November 9.

The first amendment would empower the Social Security Administration to award benefits which are now awarded in increased amount for dependents, in such a way that they would be paid either to the dependents themselves directly or in such a manner as to be in the best interest of the dependent. The benefits are paid by a graduated scale in accordance with the number of dependents, but in some cases the dependent or dependents are not actually living with the main recipient of the benefits, or for some other reason it would be beneficial to pay these increased benefits to a different person. This amendment will not increase the total amount paid in benefits.

The second amendment is a commonsense approach to measuring whether a widow is eligible for benefits in cases where there are no available medical records to establish the cause of death.

Page 1, line 3, insert "(1)" after "That (a)".

Page 2, after line 14, insert the following new paragraph:

Section 412(a) of such act is further amended by adding at the end thereof the following new paragraph:

(5) If an individual's benefits would be increased under clause (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this title, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

Page 7, after line 11, insert the following new subsection—and redesignate the succeeding subsection accordingly:

(f) The third sentence of section 413(b) of such Act is amended by inserting before the period at the end thereof the following: ": *Provided*, That where a deceased miner had been employed in a mine for ten or more years and there are no available medical records that reasonably establish the cause of death, determination as to entitlement of his widow shall take account of information obtained from any persons who had a close relationship to him during his life".

REUBIN ASKEW—CHAMPION OF TAX EQUITY

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous material.)

Mr. FASCELL. Mr. Speaker, a truly significant election took place in my home State of Florida last Tuesday, November 2, 1971. With only one issue on the statewide ballot, the Florida electorate in a surprisingly large turnout, gave resounding approval to a constitutional amendment proposed by our Governor, Reubin O'D. Askew, authorizing a 5-percent tax on corporate profits. The significance of the outcome of this election is multifaceted. It shows what can be achieved by a dedicated and conscientious public official despite strong opposition from some of the wealthiest and most powerful forces in the State; it buttresses the respect and confidence of the people in their State government and its officials; and it brings with it a new day for the individual taxpayer in Florida—one in which tax justice and equity is more a reality than a promise.

During Reubin Askew's campaign for the governorship of Florida the one pledge he repeated to all persons within earshot was that he would fight for the enactment of a corporate profits tax and thus obviate the necessity of increasing the burdensome and often regressive taxes on individuals in Florida.

A promise to fight for the enactment of a tax is rarely a politically popular venture. In the case of Governor Askew's mission to keep his promise to the people the battle became extremely difficult by virtue of the massive and well-financed opposition of those who stood to "suffer" the imposition of minimal tax burdens.

The people saw through the distortions and misstatements of the opponents of the Governor's proposal. Their support of the corporate tax amendment represents a resounding vote of confidence in the administration of Governor Askew.

The list of accomplishments of the Askew administration is rapidly growing. The legacy of the previous administration in Florida is one that no public administrator would relish inheriting. What Governor Askew has done, and what the Florida electorate apparently endorses, is to bring to the Governor's office of Florida a new tone and quality of leadership which places the public interest as the first and only consideration in the determination of public policy. It is a refreshing and heartening change which has done much to rekindle the respect and trust of the people of Florida in their State government.

CHICAGO TRIBUNE PUTS THE BUSING CONTROVERSY INTO PROPER PERSPECTIVE

(Mr. PUCINSKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PUCINSKI. Mr. Speaker, the Chicago Tribune, in an excellent editorial which appeared in this morning's editions, has performed a notable public service by putting into proper persective the votes which were cast in this Chamber early Friday morning on the controversial question of busing.

The Chicago Tribune editorial follows:

THE VOTES AGAINST BUSING

By decisive votes of 235 to 125, 233 to 124, and 231 to 126, the House of Representatives added to a pending bill riders taking the federal government out of the business of busing students to achieve school integration. The approved measures not only prohibit use of federal money for that purpose but also restrain federal officials from making such busing by states or districts a condition of receiving federal grants. As Elliot L. Richardson, secretary of health, education, and welfare, said, "The House was expressing an attitude."

In fact, the House was expressing several attitudes. One attitude, no doubt, was unworthy racial prejudice in general and a yearning for racially segregated schools in particular. But no one should think that that was the only attitude expressed. There are good reasons, entirely free from racial animus, for wanting to minimize moving school pupils about the landscape.

Busing is tremendously expensive in terms of money, time, and energy—all of which can be better used than by making premature commuters out of school children. As long ago as July 31, 1969, Rep. Edith Green [D., Ore.], in a notable speech in the House, questioned busing as an effective means to good ends. Speaking as a legislator who had "voted for every civil rights act that has been before this House," Mrs. Green said: "Emphasis on integration and housing unaccompanied by a demand for academic excellence is worthless. This is what we ought to be concerned about—the quality of the programs." She deprecated "placing the major responsibility for integration on one institution," the public schools, and suggested that busing between black and white neighborhoods can discourage rather than promote integrated housing. Events since 1969 have done much to confirm what Mrs. Green said.

In the old dual school systems of the Deep South, the contrast between schools for whites and schools for blacks was often extreme. Some busing there no doubt was required to give black pupils access to adequately funded schools. Inequitable contrasts between schools exist in the North, too, even if they have been less deliberate and less emphatic than in the South. But a strong, unprejudiced case can be and has been made, by President Nixon and others, against calling on the schools and their pupils, bus drivers, and teachers to undertake the whole job of preventing calamitous racial isolation in this country.

The House approved appropriating $1.5 billion to help schools desegregate. With or without busing, applicants for grants will be active. The bill in question, sponsored by Illinois Rep. Roman Pucinski, speaks of many undertakings—programs and projects and personnel to counsel, guide, teach, organize extracurricular and community efforts for the sake of reducing racial segregation and isolation. Part of the intent is to discourage the flight to the suburbs by strengthening city schools.

Once the $1.5 billion appropriation, which is for several years, goes into action [if it does], Illinois will be getting $70 million a year, and Chicago $42 million of that. With busing eliminated, all of this money will be available for improving the quality of education. We hope the money will be well spent. It could be.

But the basic message of the antibusing votes is that Congress has turned away from the idea that the schools can be expected to be the sole agency for increasing racial integration in American society. The schools never should have been burdened with this expectation, and it is good that they are being relieved of it.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

The average meat caloric consumption per day for the U.S. citizen is 237 calories as compared to 4 calories per day for citizens of Ceylon and only 8 for the Republic of Korea.

AGE LIMIT ON PILOTS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the Air Line Pilots Association, International, having a membership of about 40,000 airline crew members, employed by more than 45 common carriers, has been very deeply concerned about the action of the Federal Aviation Authority, by section 121.383(c) of the Federal Aviation Regulations, forbidding any person from serving as a pilot on an airplane engaged in certificated air transport service once that person has reached his 60th birthday. I share the protest of the Air Line Pilots Association, International, against this unjustified action of the FAA. I supported in the Congress Public Law 90–202, enacted in 1967 as the Age Discrimination in Employment Act of 1967. It was the intent of this act to forbid discrimination in employment on account of age alone. The obvious reason for such a policy being enacted by the Congress was that no longer is age a criterion of an individual's qualification for employment. Some men are old at 30, others are young at 65. One's qualification to act as a pilot on a certificated air line should be his mental and physical qualifications to perform the duties of such employment, assuming, of course, that he is a person of proper attitude and character. All that I have heard leads me to believe that the FAA enacted this ruling without justifiable and adequate medical support. At long last, a hearing has been afforded the Air Line Pilots Association, International, and others interested where there was presented medical testimony showing the error of the 60-year-old rule action of the FAA.

I appeared before the FAA panel on this matter on October 19 and strenuously urged that the qualification of pilots not be restricted to their calendar age but that they be selected and retained in service on the basis of their qualifications, regardless of age.

As more and more of our older people are surviving into older citizenship it is a matter of national importance that we do not shut the doors of employment opportunity, because of one's chronological age. That is the tyranny of the calendar and of prejudice and not a principle of fairness in employment.

Mr. Speaker, on October 19 the very able president of the Air Line Pilots Association, International, John J. O'Donnell, submitted an excellent statement against the 60-year-old rule at the hearing afforded by the FAA in the FAA Building here in Washington. I commend Mr. O'Donnell's able statement to my colleagues and to my fellow citizens, and Mr. Speaker, that it be incorporated in the RECORD immediately following my remarks:

STATEMENT BY PRESIDENT O'DONNELL

My name is John J. O'Donnell and I am President of the Air Line Pilots Association, International. The Association's membership consists of about 40,000 airline crew members, employed by more than 45 common carriers. Almost all of the nation's airline pilots are represented, in collective bargaining and in safety matters, by the Association.

Through a Home Office Engineering and Air Safety Department staffed by professional and full-time aeronautical engineers and air safety specialists, the Association maintains an active and continuous program designed to improve the safety of the nation's airline operations. In addition, through a network of many local councils, the Association monitors local safety conditions throughout the country and participates in many investigations, hearings and other procedures aimed at this vital objective. The Association's role in air safety, from the design and manufacture of new equipment to the analysis and study of safety hazards in accident cases, is widely and consistently acknowledged throughout the industry.

My purpose in appearing before you today is to seek the revocation of the Age 60 rule. Section 121.383(c) of the Federal Aviation Regulations presently forbids any person from serving as a pilot on an airplane engaged in certificated air transport service once that person has reached his 60th birthday. In the Association's view, this rule cannot be justified by logic or experience, violates important considerations of public policy, and bears no reasonable relationship to the legitimate needs of air safety.

I would begin my critique of the Age 60 rule by exploring the origin of the rule in some greater detail than the record so far has compiled. The Rule's history really begins in October 1958, when the American Airlines Pilots' System Board of Adjustment, acting in its designated capacity under the Railway Labor Act, interpreted the negotiated pilot agreement on that airline as prohibiting a rule of compulsory retirement at age 60. The airline's rule was accordingly nullified. Later, another arbitration panel on Western Air Lines reached a similar result: in July 1959, the panel vacated that carrier's mandatory age 60 retirement rule, concluding that—

"There is no testimonial basis and no fact of life of which we could be expected to take a kind of 'judicial notice' that supports the view that it is unsafe to let a pilot perform after the age of 60."

The FAA Administrator at that time, General Quesada, proposed, in June 1959, new government regulations which would terminate the employment of airline pilots at age 60 and prohibit their transition from piston to turbine aircraft at age 55. Although the Association pointedly urged the FAA to conduct full evidentiary hearings on the proposed regulations, FAA issued the Age 60 regulation (now FAR Section 121.383(c)) on December 1, 1959, without an evidentiary hearing.

It is significant to note, however, that a hearing was conducted on the age 55 transition proposal, and that, on the basis of the evidence presented at that hearing, FAA withdrew this proposal as unnecessary. In the Association's view, FAA's failure to conduct a timely hearing on the proposed Age 60 rule has led the agency into a costly and wasteful series of errors. About 1,000 airline pilots have been involuntarily retired from airline service since 1960, although their current FAA required physical and proficiency examinations showed them to be competent, qualified and in faultless physical condition.

Other witnesses for the Association will explain, in greater detail, the waste of human resources and the frustration which this mandatory retirement rule has bred. At this point, however, I would emphasize only two facts for your consideration. First, the airlines themselves have estimated that it costs approximately $200,000 to replace each one of these individuals in the left-hand seat of an airplane.

Second, the rule which imposes this burden has never been exposed to the scrutiny of an evidentiary hearing, despite our frequent requests. While FAA has offered to hear our comments, the rule itself is not subject to the kind of rigorous examination which only a trial-type hearing can provide.

The Association does not believe that today's proceedings will provide an appropriate forum for consideration of the real issues involved. Until agency officials or representatives themselves come forward to present the medical, scientific and statistical basis for a cut-off at Age 60, and until this scientific basis can be exposed to the light of open and public inquiry and the tests of robust scientific debate, the Association will continue to view the agency's position as resting largely on myth.

The fact is that FAA has never offered any medical or scientific data supporting compulsory retirement at age 60 for air line pilots. A federally funded study of this subject was conducted at Georgetown University under FAA auspices, but the study was terminated without any published findings, and the data still remains unprocessed.

We have our own evidence and our views about the aging of airline pilots and the effect of aging on air safety. Although some of the medical experts in this area will testify before you later, I would highlight some aspects of their findings immediately. They show, contrary to the myth upon which the FAA regulation is based, that the Age 60 cut-off is unsupported by scientific or medical evidence.

A 1969 thesis issued by the Aviation Medicine Research Laboratory of Ohio State University concluded that the possibility of sudden incapacitation among airline pilots at age 55 and above was substantially less than

the possibility of such an occurrence between ages 40 and 55.[1]

In 1953, a report on the "Pensacola Study", involving tests of 1,056 Naval student pilots with a follow-up examination 12 years later, showed "a disease rate less than one-half that expected for a group of comparable age in civilian life."[2]

In 1968, a study of 206 autopsied military pilots with varying degrees of coronary atherosclerosis demonstrated that age and amount of flying time were not related to the severity of this condition in the studied pilots. The author of the study considered that—

"Aviation accidents attributable to coronary artery disease have always generated undue publicity and alarm . . . Drastic elimination of older aircrew will not significantly reduce aviation accidents."[3]

Based upon careful and lengthy studies, Dr. Jacek Szafran, one of the leading experts in the field of pilot aging has concluded that—

"At least in this particular profession, age per se could not necessarily be equated with decline nor should it be considered a sufficient reason for retirement."[4]

The Association is pleased that Dr. Szfran has consented to appear in these proceedings and give testimony himself.

The Agency's own personnel, when they conducted research into the subject, found support for our views, not the agency's. Thus, a study by representatives of FAA and Johns Hopkins concluded as follows:

"An analysis of the accident record of older general aviation pilots (over sixty) for 1965 reveals that this age group has an accident record essentially comparable, and in some cases superior, to that of the younger pilot group."[5]

Finally, we respectfully direct your attention to the fact that a basic premise for the Age 60 rule is plainly false. As the medical testimony we will present today makes clear, FAA was wrong in 1959, and remains wrong today, in stating that there is a sudden increase in the incidence of sudden incapacitation at age 60 or higher due to heart attack or stroke. Careful review of the record should convince FAA that this statement cannot be squared with the real facts of life. Once this erroneous myth is destroyed, the whole notion of mandatory retirement at Age 60 should disappear along with it.

Moreover, the Age 60 rule deprives this country of an important resource which would otherwise be available to improve the safety of air carrier operations. Whether it is called "judgment," "finesse", or "experience", pilots know that there is an advantage or talent which is accumulated by pilots over the years. In our view, this positive aspect of the aging process contributes significantly to air safety. It need not and should not be wasted.

There are other reasons, apart from the very practical ones indicated by the foregoing, for revoking the Age 60 rule. Not only does the rule compel a serious waste of human resources, without any compensating benefits to air safety, but, in addition, it stands as a solitary and flagrant exception to articulated public policy.

In December 1967, Congress approved a new civil rights measure entitled "Age Discrimination in Employment Act of 1967" (P.L. 90-202). After finding that ". . . the setting of arbitrary age limits regardless of potential job performance has become common practice . . .", Congress asserted that it was the "purpose of this Act . . . to prohibit arbitrary age discrimination in employment." The Act became effective on June 15, 1968.

Accordingly, it is now the policy of this nation generally to preclude discrimination in employment based upon age. As Senator Harrison A. Williams, Chairman of the Senate's Special Committee on Aging, explained in January 1968, ". . . that age and age alone is the factor by which we should judge a man's suitability for work roles [is] . . . a misconception that should, by now, have thoroughly been discredited . . ."

Later that same year, however, the Secretary of Labor and the Secretary of Transportation issued statements characterizing the FAA age 60 limitation as a "bona fide occupational qualification" for airline pilots, and therefore not violative of the new Congressional enactment. Neither of these administrative statements were issued in the context of formal proceedings, hearings, or other opportunities for the presentation of relevant evidence.

It is understandable, of course, that cabinet members and courts would want to defer to the expert judgment of the FAA in matters of air safety. We can appreciate the reluctance of the federal courts—to whom we turned for relief when the Age 60 rule was implemented—and Secretaries of Transportation and Labor, to grapple with the technical and complex issues of aging and safety on their merits. But it remains a source of continuing frustration and concern that this agency itself, to whom all others defer, still remains unwilling to open the way for thorough and scientific inquiry.

Furthermore, until that is done, we remain convinced that airline pilots are needless victims of an unlawful and unreasoned policy.

[1] "An Epidemiologic Study of In-Flight Airline Pilot Incapacitation", Kulak, Linton Luther, M.D., Aviation Medicine Research Laboratory of the Department of Preventive Medicine, Ohio State University, 1969.

[2] Graybill, Ashton, et al., "A Twelve-Year Follow-Up Study of 1,056 U.S. Naval Fliers", 112 *The Military Surgeon*, No. 5, p. 323-332 (May 1953).

[3] Scheinman, H. Z., "Coronary Atherosclerosis in Military Pilots: Relationship to Flying and Aviation Accidents", *Aerospace Medicine*, 39: 1348-51, Dec. 1968.

[4] Szafran, J., "Psychological Studies of Aging in Pilots", 40 *Aerospace Medicine*, No. 5, May 1970, pp. 543-553.

[5] Mohler, Stanley R., et al, "Aircraft Accidents by Older Persons.". 40 *Aerospace Medicine*, May 1969, pp. 554-556.

NARCOTIC ADDICTION TREATMENT

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, this week the House passed H.R. 8389. This is an important piece of legislation, and vital to this country's war against narcotic addiction.

The Federal Government has for several years had a program for treating narcotics addicts incarcerated in Federal penitentiaries. However, we all know that the great majority of addicts convicted of crimes are convicted in State courts and are sentenced to State penal facilities. Yet the State penal institutions have been woefully unprepared to deal with the problems of treating and working with these individuals.

H.R. 8389 will provide for Federal assistance to State correctional facilities that must deal with inmates addicted to narcotics. State planning agencies requesting corrections funds from the Law Enforcement Assistance Administration will be required to provide arrangements for the development and operation of narcotics treatment programs in both corrections facilities and indeed during probation and parole. The Administrator of LEAA will retain authority to issue regulations concerning standards for these programs. Thus there will be a modicum of centralization and standardization achieved through the program.

Mr. Speaker, the Select Committee on Crime, which I have the honor of chairing, has dwelt long and hard on the issue of narcotics addiction and treatment heretofore. In addition, we have had the opportunity to survey many correctional institutions, both juvenile and adult, to see their problems and understand their needs. Based upon this experience, I am convinced that H.R. 8389 was a necessary bill and an important bill, and I am heartened and delighted that the House of Representatives passed it overwhelmingly.

HIALEAH'S SISTER CITY PROGRAM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I wish to draw the attention of my colleagues to the recent activities of the Hialeah-Managua sister city program, as described in the report that follows:

The citizens of the city of Hialeah, in my district, and the sister city committee are to be commended for their efforts to make the town affiliation program the solid success it is.

I offer my congratulations and continued good wishes to all who have contributed to this worthy effort in Hialeah and in Managua, Nicaragua.

The report follows:

One of the most successful Town Affiliation Programs for a city in the United States was recently commended in Hialeah, Florida, the second largest city in Dade County, Florida, and the seventh largest in the State. The highest presentation by the City of Hialeah—its Award of Honor—was made to the Hialeah-Managua Sister City Committee for distinguished and exemplary service within the Town Affiliation Program.

This year has been a high point in the history of the Hialeah-Managua Sister City Committee which is ably served by Philip J. Donohue as President, and Raymond Schultz as Vice President.

Early this year, when disaster struck the City of Leon, Nicaragua, which is near Managua, the help of the Sister City Committee was immediate and resourceful. A volcano, "Cerro Negro", erupted in February causing extensive damage in a 30-mile radius. At that time, Mrs. Mary Barrer, a past president of the Hialeah-Managua Sister City Committee, was in Managua for another international project. Through the efforts of the Managua Committee and the Republic of Nicaragua Airline Lanica, the Hialeah Committee reacted swiftly, amassing clothing and canned goods throughout the city by utilizing fire stations and schools as collection points. Civil and fraternal organizations provided assistance after an appeal, made on local radio and television stations, by Mr. Donohue and Hialeah City Council Vice President Victor Wilde.

In a matter of days, more than 12 tons of food and clothing and an additional one-ton of medical supplies was arranged for the victims of the dreaded volcano.

The medical supplies were donated by the Reform World Relief Committee through the strong intercession of Mr. Schultz and Committee Member James Tuinstra.

Hialeah Mayor Charles A. Whiteacre appealed directly to the business people of Hialeah requesting financial assistance and the result was that extensive medical supplies, with a retail value of more then $200,000 were sent to the new community in Nicaragua of Nueva Guina, which was established for the victims of the volcano.

The cultural aspect of the Hialeah-Managua Sister City Program was explained in detail in April on a two-part, radio program broadcast throughout the South Florida area by station WHMS. The program helped to explain the history of Nicaragua, its climate, industry, agriculture, customs and people. Leading the discussion were Mayor Whiteacre and Nicaraguan Consul General Louis de-Bayle. Such information projects, with resulting publicity, have resulted in a sincere and great understanding of this worthy international program by the more than 100,000 residents of Hialeah.

Direct participation by the Sister City Committee has helped in the successful staging of the annual Angel Derby, a Latin American competition for more than 100 women pilots. Also, the largest and most successful visit of Hialeah officials, civic leaders, businessmen and residents to Managua was made over the Fourth of July Weekend with deep-roots being instilled for the international good-will between the United States and Nicaragua. While there, Committee President Donohue and committee member Roger Currier presented from the Father Lawrence J. Flynn Council of the Knights of Columbus of Hialeah, a gold chalice to the tubercular hospital in Leon. The chalice is a permanent reminder to the patients at the hospital, not only of their religious faith, but also of the good-will of Americans toward Nicaragua.

In August, the first annual International Sister City Baseball Tournament for 13–15 year old boys was held in Managua and other Nicaraguan cities. The tournament, which was seen by capacity crowds day and night, was arranged through the corporation of the National Federation of Baseball in Nicaragua, Lanica Airlines, the Hialeah-Managua Sister City Committee, the Hialeah Athletic Association and the City of Hialeah. Hialeah happened to be victorious in the tournament but its real value was its People to People contact with the American boys staying with families in Managua. Life-long friendships were engendered.

We are told that the high point of the tournament came following the victory of the Hialeah Athletic Association team over the boys representing Masaya. Committee Vice President Raymond Schultz earlier had presented an American Flag to be flown over Somoza Stadium in Managua.

While we here in the United States lament desecration of our beloved flag, the players of the losing Nicaraguan team held the American Flag on high, proudly marching around the baseball stadium, twice, to the cheers of the 3,500 fans. It must have been a wonderful sight!

In September, the efforts of the Hialeah-Managua Sister City Committee were recognized nationally at the Town Affiliation Annual Convention here in Washington when Mayor Whiteacre and Committee President Donohue were chosen to serve on the Select Task Force Committee of the nation-wide Committee. During the convention, Mayor Whiteacre presented to Nicaraguan Ambassador Guillermo Sevilla Sacasa four distinctive plaques depicting our American Heritage.

The over-all understanding of these United States in the schools of Managua was abetted with the dispatch by the Hialeah Committee to Nicaragua of 50 beautiful posters illustrating 50 of our United States for the benefit of the Maria's and Julio's in the Managua school system.

Such sincere, unselfish work as that of the Hialeah Managua Sister City Committee is certainly commendable on our part and should be encouraged in everyway.

FROM SAN JUAN HILL TO THE VIETNAM JUNGLES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I would like to draw the attention of my colleagues to a recent speech by Dr. Manolo Reyes, Latin American news editor of Miami television station WTVJ, to the Veterans of Foreign Wars, aboard a U.S. Coast Guard cutter in Miami on Veterans Day. His words regarding Cuban-American friendship were appropriate for this occasion and his thoughts express the respect and admiration which is mutually enjoyed.

The speech follows:

SPEECH TO THE VETERANS OF FOREIGN WARS ABOARD A COAST GUARD CUTTER, MIAMI, FLA., VETERANS DAY—OCTOBER 25, 1971

(By Manolo Reyes)

My words to you today can be entitled "From San Juan Hill to The Vietnam Jungles."

In the first international conflicts of the United States in 1898—the Spanish-Cuban-American War—Cuban and American soldiers fought together for the freedom of Cuba. Even now in the current international conflict the United States is facing—the Vietnam War—Cuban and American soldiers are fighting together so freedom can shine over that part of the world.

From that first conflict to now, we have been together. And it will be in the future as it is now—always together in the defense of freedom.

The essential meaning of the words that I am speaking to you now . . . above the sea and under the sky . . . comes from an open heart that deeply believes in the traditional friendship of our two nations.

And this is why we are here today. To render a tribute of respect and admiration to all the dead and living Veterans of the United States.

Today we single out one example of supreme sacrifice that has been shown by our veterans of previous wars—the four Chaplains who lost their lives on the U.S.S. Dorchester. It did not matter to them that they were of different denominations; it did not matter that they did not know the names of the soldiers they gave their life jackets to.

They gave their lives to God so that others could live in freedom. They did this because they loved. They did not think first of themselves—they thought only of the salvation of others. That is love. Love is the most powerful weapon possible for fighting those who would hate. Freedom was never born of hate. He who hates is a slave. He who loves is a free man. And the love for others, as the love for ones country, demands sacrifices.

So, as they died for the love of God, their country and their fellow man . . . so do thousands of other Veterans die for freedom . . . because they loved.

Today we remember them . . . and we honor all of them. We feel respect, admiration and gratefulness for their sacrifices because our two nations—Cuba and the United States—have been and will always be friends.

Seventy-three years ago, our Cuban and American ancestors joined together in the Spanish-Cuban-American war in San Juan Hill. Now more than 10,000 Cubans have gone to Vietnam to fight side-by-side with their American friends. Some died. Some were wounded.

Some who returned to us are here today for the first time in this ceremony. Represented here today are members of the newly formed Post of Veterans of Foreign Wars, Cuban-American "Jose-Marti" unit. Many of these men are veterans also of the Bay of Pigs expedition.

This is why I say that Americans and Cubans have been fighting together from "San Juan Hill to the Vietnam Jungles".

And, interpreting the feelings of my compatriots here with us today, I know I can talk for them and I reaffirm this day our friendship . . . honoring your dead and our's in the cause of freedom. And I hope and pray for the day when we will have a similar ceremony—in Cuban waters—always together in the defense of freedom.

On behalf of the Cuban people, I salute all the Veterans of the United States.

LEAVES OF ABSENCE

By unanimous consent, leaves of absence were granted as follows:

Mr. JOHNSON of California (at the request of Mr. BOGGS), for Thursday, November 4, and Friday, November 5, on account of official business.

Mr. BARRETT (at the request of Mr. BYRNE of Pennsylvania), for Monday, November 8, 1971, on account of illness.

Mr. MCMILLAN (at the request of Mr. BOGGS), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLISTER) and to revise and extend their remarks and include extraneous matter:)

Mr. BOW, for 1 hour, today.

Mr. HOSMER, for 30 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

Mr. SPENCE, for 1 hour, on Tuesday, November 9.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. DENHOLM) and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. ADDABBO, for 30 minutes, today.

Mr. ANDERSON of Tennessee, for 20 minutes, today.

Mr. FOUNTAIN, for 20 minutes, today.

Mr. DULSKI, for 10 minutes, today.

Mr. FLOOD, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MITCHELL and to include extraneous matter.

Mr. MILLER of California in five in-

stances and to include extraneous matter.

Mr. PEPPER in five instances, and to include extraneous material.

Mr. KYL, to include extraneous matter with his remarks made today in the Committee of the Whole on H.R. 10729.

(The following Members (at the request of Mr. MCCOLLISTER) and to include extraneous material:)

Mr. WINN.
Mr. ESCH.
Mr. BAKER in two instances.
Mr. DEVINE.
Mr. WYMAN in three instances.
Mr. GOODLING.
Mr. HOSMER in three instances.
Mr. SCHWENGEL in three instances.
Mr. ROBINSON of Virginia.
Mr. FRENZEL.
Mr. DELLENBACK.
Mr. PEYSER.
Mr. MORSE in two instances.
Mr. DUNCAN.
Mr. MCCLORY.
Mr. PRICE of Texas.
Mr. STEIGER of Wisconsin.
Mr. REID of New York.
Mr. FREY.
Mr. SCHMITZ.
Mr. MAILLIARD in two instances.
Mr. BURKE of Florida in two instances.
Mr. ASHBROOK in three instances.

(The following Members (at the request of Mr. DENHOLM), and to include extraneous matter:)

Mr. GONZALEZ in two instances.
Mr. RARICK in three instances.
Mrs. SULLIVAN in two instances.
Mr. WILLIAM D. FORD.
Mr. DOW in two instances.
Mr. EILBERG in two instances.
Mr. HAGAN in two instances.
Mr. ROGERS in five instances.
Mr. TEAGUE of Texas in eight instances.
Mr. DANIELSON.
Mr. O'NEILL in two instances.
Mr. BADILLO in two instances.
Mr. PICKLE in five instances.
Mr. JONES of Tennessee.
Mr. MAZZOLI.
Mr. DORN.
Mr. JOHNSON of California.
Mr. RODINO.
Mr. KLUCZYNSKI in two instances.
Mr. SARBANES in five instances.
Mr. HAMILTON in two instances.
Mr. CHAPPELL in two instances.
Mr. RYAN in three instances.
Mr. DINGELL.
Mr. MITCHELL in five instances.
Mr. OBEY in four instances.
Mr. JACOBS.
Mr. SCHEUER.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk.

H.R. 5060. An act 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.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Tuesday, November 9, 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:

1265. A letter from the Director of Civil Defense, Department of the Army, transmitting a report of the Federal contributions program—equipment and facilities, for the quarter ended September 30, 1971, pursuant to section 201(i) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1266. A letter from the Commissioner of Education, Department of Health, Education, and Welfare, transmitting a status report on education of gifted and talented children, pursuant to section 806 of Public Law 91-230; to the Committee on Education and Labor.

1267. A letter from the Acting Secretary of Transportation, transmitting a report on the status of intercity railroad passenger service, pursuant to Public Law 91-518; to the Committee on Interstate and Foreign Commerce.

1268. A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State or local governments and for other purposes; to the Committee on Interstate and Foreign Commerce.

1269. A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to amend the Interstate Commerce Act, as amended, and acts amendatory and supplemental thereto to provide for increased reliance on competition in the establishment of carrier rates, charges, and practices, to liberalize entry and exit in the several modes of surface transportation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1270. A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend the act of August 6, 1958, 72 Stat. 497, relating to service as chief judge of a U.S. district court; to the Committee on the Judiciary.

1271. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 213(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1272. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders adjusting the status of certain aliens to lawful permanent residents under section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

1273. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize an additional Assistant Secretary of Commerce; to the Committee on Interstate and Foreign Commerce.

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. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9759.—A bill to amend the Investment Company Act of 1940, as amended (Rept. No. 92-623). Referred to the House Calendar.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 7072. (Rept. No. 92-624). Ordered to be printed.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 7577. A bill to amend section 3306 of the Internal Revenue Code of 1954 (Rept. No. 92-625). Referred to the Committee on the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FLOWERS: Committee on the Judiciary. H.R. 2394. A bill for the relief of Antonio Benavides (Rept. No. 92-619). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 2703. A bill for the relief of Mrs. Concepcion Garcia Balauro (Rept. No. 92-620). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. Senate Concurrent Resolution 35. Concurrent resolution favoring the suspension of deportation of certain aliens; with amendments (Rept. No. 92-621). Referred to the Committee on the Whole House.

Mr. MAYNE: Committee on the Judiciary. H.R. 2714. A bill for the relief of Mrs. Kayo N. Carvell; with an amendment (Rept. No. 92-622). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM (for himself, Mr. ASPIN, Mr. HUNGATE, Mr. MAZZOLI, Mr. YATRON, and Mr. BEGICH):

H.R. 11611. A bill to amend the Fair Packaging and Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business and the packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL of Virginia (for himself, Mr. SHOUP, Mr. LUJAN, Mr. DELLENBACK, Mr. ZWACH, Mr. TERRY, and Mr. DICKINSON):

H.R. 11612. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 11613. A bill to change the name of the Indiana Dunes National Lakeshore to the Cole Porter National Lakeshore; to the Committee on Interior and Insular Affairs.

By Mr. HELSTOSKI:

H.R. 11614. A bill to provide for the issuance of a commemorative postage stamp in honor of the 75th anniversary of the founding of the Parent-Teacher Association; to the Committee on Post Office and Civil Service.

H.R. 11615. A bill to amend title 38 of the United States Code to increase the maximum burial and funeral expense payment for a veteran to $400 and to provide an additional allowance of not to exceed $250 for the purchase of a burial plot; to the Committee on Veterans' Affairs.

By Mr. KOCH (for himself and Mr. BIAGGI):

H.R. 11616. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain emergency grants to assure adequate rapid transit and commuter railroad service in urban areas, and for other purposes; to the Committee on Banking and Currency.

By Mr. McCOLLISTER:

H.R. 11617. A bill to provide for a reduction in the salaries of certain officers and employees of the Federal Government; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.R. 11618. A bill to order the construction of a Veterans' Administration hospital in the southern area of New Jersey; to the Committee on Veterans' Affairs.

By Mr. TAYLOR:

H.R. 11619. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 11620. A bill for the relief of certain cities, counties, and government agencies of the State of Florida to compensate them for costs in connection with a "red tide" occurrence; to the Committee on the Judiciary.

By Mr. DULSKI:

H.R. 11621. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CARTER:

H.R. 11622. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. DULSKI (for himself, Mr. WALDIE, and Mr. HILLIS):

H.R. 11623. A bill to amend chapter 83 of title 5, United States Code, relating to adopted child; to the Committee on Post Office and Civil Service.

By Mr. HÉBERT (for himself and Mr. ARENDS (by request)):

H.R. 11624. A bill to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition; to the Committee on Armed Services.

By Mr. KYROS:

H.R. 11625. A bill to insure adequate health care to children suffering from major illness, to insure adequate care to all infants born in low-income families, and to insure adequate maternal care to all women in low-income families; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 11626. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to authorize the acquisition of certain properties, and for other purposes; to the Committee on Banking and Currency.

By Mr. STAGGERS (for himself, Mr. MOSS, Mr. ECKHARDT, Mr. CARNEY, and Mr. DINGELL):

H.R. 11627. A bill to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STUCKEY (for himself, Mr. McMILLAN (by request), Mr. DELLUMS, Mr. DIGGS, Mr. O'KONSKI, Mr. McKINNEY, Mr. MIKVA, Mr. MADDEN, Mr. CARTER, Mr. FAUNTROY, Mr. ROY, Mr. GUDE, Mr. NELSEN, Mr. CONTE, Mr. GIAIMO, Mr. STAGGERS, Mr. PREYER of North Carolina, Mr. BROYHILL of Virginia, Mr. FRASER, Mr. ROGERS, Mr. LINK, Mr. SPRINGER, and Mr. FUQUA):

H.R. 11628. A bill to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia; to the Committee on the District of Columbia.

By Mr. PETTIS:

H. Con. Res. 448. Concurrent resolution to express the sense of Congress that the U.S. Bureau of Reclamation should accelerate its investigations of geothermal resources as a potential major new source of fresh water supplies for the Western United States; to the Committee on Interior and Insular Affairs.

By Mr. GUBSER:

H. Res. 695. Resolution expressing the sense of the House of Representatives with respect to a complete accounting of all American prisoners of war in Southeast Asia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

280. By the SPEAKER: Memorial of the House of Representatives of the State of Illinois, relative to the denial by the Civil Aeronautics Board of an application to provide for direct flights from Chicago to Israel; to the Committee on Interstate and Foreign Commerce.

281. Also, memorial of the Legislature of the State of Georgia, ratifying the 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.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Ohio:

H.R. 11629. A bill for the relief of Cpl. Bobby R. Mullins; to the Committee on the Judiciary.

By Mr. PATTEN:

H.R. 11630. A bill for the relief of Salvador Pancorbo; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 11631. A bill for the relief of Robert Gibbons; to the Committee on the Judiciary.

By Mr. WIDNALL:

H.R. 11632. A bill for the relief of Vincent J. Sindone; 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:

152. By the SPEAKER: Petition of Eric Havens et al., Marion, Ill., relative to redress of grievances; to the Committee of the Judiciary.

153. Also petition of the Vermont State Labor Council, AFL–CIO, relative to the national health security bill; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

BOYS' CLUB OF SAN GABRIEL VALLEY DESERVES PRAISE

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DANIELSON. Mr. Speaker, the Boys' Club of San Gabriel Valley, which services part of my congressional district, is holding its annual meeting and awards dinner this Thursday, November 11. I will not be able to attend, but the event brought to mind the fine work that this active organization has been doing.

During this past summer this boys' club has taken advantage of two Federal programs, as described in the following statement. The civic leaders who are active in the club operation, as well as the staff members, are to be commended. The statement follows:

BOYS' CLUB OF SAN GABRIEL VALLEY SPECIAL LUNCH AND DINNER PROGRAM FOR BOYS—1971

This summer marked the second year that the Boys' Club of San Gabriel Valley participated with the California State Department of Education in providing hot and nutritious lunches and dinners for its members during the summer vacation period. This program was established by the United States Department of Agriculture in order to provide nutritional meals for children living in low-income areas and to help safeguard the health and well-being of our youth.

The Boys' Club agreed to prepare and serve meals of a type, quality and quantity sufficient to meet U.S.D.A. requirements. The State Department of Education served as a technical resource and the disbursing agency. The Boys' Club was reimbursed 30¢ for each meal served. In addition, the Boys' Club became eligible to utilize U.S.D.A. surplus foods and to receive periodic visits and consultation nutrition specialists.

The Boys' Club agreed to provide no-cost food service for all boys regardless of race, color, or national origin and to serve meals which met at least the minimum U.S.D.A. requirements:

1. Protein Rich Foods—Meat, cheese, eggs—Minimum 2 oz.

2. Fruits and Vegetables—¾ cup—At least two dishes.

3. Enriched Bread—one serving.

4. Butter or Fortified Margarine—1 teaspoon.

5. Whole fresh milk—one-half pint.

Through direct cooperation with the Work Experience Office of the El Monte Union High School District, the Boys' Club was able to utilize the services of the Neighborhood Youth Corps in the preparation and serving of the meals. One fine young girl, a college student, served as the cook while two other N.Y.C. workers assisted in the preparation, serving, and clean-up. There was no cost to the Boys' Club for the N.Y.C. workers who