Western New York residents, to that of the giant Taft corporation, with its radio-television properties, amusement-park facilities, real estate, animation studio (Hanna-Barbera) and a multitude of other financial interests across the country.

This too, is either good or bad, depending on whether you look at things from a hometown viewpoint, as far as services, community control and interest are concerned, or the greater financial stability of a national company.

Taft officials at the luncheon were optimistic as to the future, with pledges of cooperation and boosts to the future of Buffalo as a good place to do business.

Current broadcast personnel who put in some time at WGR include WBEN's Clint Buehlman, the station's "Muscial Clock" watcher in the early '30's; George Torge, former WGR announcer who now is station manager at Ch. 4; Dick Shepard, Ch. 7 sales manager who was a high-school reporter at WGR and later station manager; Ralph Hubbell; and Jack Eno of WEBR.

Under program director Dave Hammond, WGR now runs a ship with fairly pleasant "middle-of-the-road" music, a happy-talk air and a generally upbeat format that is not hard to take.

Following is a May 23 article from the Buffalo Evening News by its radio-TV editor, Gary Deeb:

WGR MARKS 50TH BIRTHDAY IN CIVIC EVENT

(By Gary Deeb)

Niagara Square ceremonies, a civic luncheon and a gathering of past and present employes marked the golden anniversary celebration of WGR Radio Monday. The occasion also served as the observance of a half-century of radio in Buffalo, as WGR was the area's first station in 1922.

Mayor Sedita proclaimed "WGR 50th Anniversary Week" during noon festivities alongside the McKinley Monument. There were brief remarks by Charles Mechem, board chairman of WGR's parent Taft Broadcasting Co., and Leon Lowenthal, vice president and general manager of WGR Radio.

Then John McClay, executive vice president of Taft, pushed a gold button activating a cartridge tape that officially began the station's second 50 years. WGR morning man Frank Benny was master of ceremonies for the brief outdoor ceremony.

A Plaza Suite luncheon followed, with a number of city and county officials in attendance. Board Chairman Mechem toasted WGR's new $400,000 radio facility on Franklin St. as "probably one of the finest in the United States."

Current and former WGR employes capped the day's events with an informal party Monday night in the Four Seasons Motor Inn, Town of Tonawanda.

Since getting airborne as Buffalo's pioneer station, WGR has been the springboard to nationwide success for dozens of radiomen, among them Buffalo Bob Smith, Col. Stoopnagle & Bud, Jack Smart, Fran Striker, the Modernaires, Roger Baker, Foster Brooks, Ralph Story, Bill Mazer and Frank Dill.

HOUSE OF REPRESENTATIVES—*Tuesday, May 30, 1972*

The House met at 12 o'clock noon.

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

O that men would praise the Lord for His goodness and for His wonderful works to the children of men.—Psalms 107: 8.

Almighty and Everlasting God, in whom we live and move and have our being, help us to live through the days of this week with peace and with joy. Direct us with Thy wisdom, support us by Thy power, sustain us in Thy love that we may come to the end of each day unashamed, unafraid, and with a quiet mind.

Bless our President in his efforts for peace and justice. May he return successful in his endeavors to foster cooperation among the nations of the world.

Bless our Speaker as he leads this House of Representatives. Together may we work for a greater unity in our country, a greater faith in our Nation, and a greater good among the people of our land.

In the spirit of Christ, we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 659) entitled "An act 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."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title.

H.R. 7117. An act to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1295. An act to establish the Amistad National Recreation Area in the State of Texas;

S. 3230. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket No. 279–A, and for other purposes;

S. 3568. An act to designate the Federal Bureau of Investigation building now under construction in Washington, District of Columbia, as the "J. Edgar Hoover Building," and

S. 3607. An act to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

APPOINTMENT OF CONFEREES ON H.R. 11350, INTERNATIONAL CRIMINAL POLICE ORGANIZATION

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11350) to increase the limit on dues for U.S. membership in the International Criminal Police Organization, with the Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate on the disagreeing votes of the two Houses.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. EDWARDS of California, CONYERS, and WIGGINS.

NEW ECONOMIC POLICY

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

Mr. CONABLE. Mr. Speaker, last Thursday the Department of Commerce reported that the index of leading economic indicators, which often anticipates broad movements in the economy, showed exceptional strength during the month of April. The index rose 1.4 percent last month, to 140.2 percent of the 1967 average, up from March's 138.2 percent. In addition, the Commerce Department reported that the March gain, which was originally estimated at 0.9 percent, has been revised sharply upward to 1.9 percent above the February level. The March rise was the largest monthly rise in the index since the 2.1 percent increase in March 1971.

The April performance was encouraging for reasons other than just its large size. Of the 12 leading indicators, eight are now available for April. Of the eight, seven strengthened, which was the first time in 3 years that such a high proportion of the eight indicators initially available improved. The April increase in the index was the 17th in the last 18 months, and indicates, according to Harold C. Passer, Assistant Secretary of Commerce for Economic Affairs, that continuing "strong economic growth is ahead."

At the same time that the leading indicator figures were announced by the Department of Commerce, the Department of Agriculture reported that during the month of April the typical "market basket" of groceries cost 0.7 percent less than in March. This was the second month of decline in grocery costs. Retail beef prices fell about 3.8 percent, which was the first time that they have declined since last October.

Mr. Speaker, this economic news is especially encouraging because it shows strengthening economic performance accompanied by price declines. This news is similar to the news earlier this month that gross national product, industrial production, and consumer credit are rising, all while the Consumer Price Index shows a reduction in inflation. May has given us sound evidence that the new economic policy is enabling us to resolve the inflation-economic growth dilemma.

AGREEMENT ON STRATEGIC ARMS

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

Mr. SIKES. Mr. Speaker, the accords which have been announced from Moscow between President Nixon and the Russian heads of state represent significant progress toward a better understanding. In particular, the agreement on strategic arms limitation is an important achievement. Admittedly it gives Russia the edge, but at least it starts applying the brake on unlimited arms expansion. They are now outbuilding the United States in new weapons. Assuming they will honor their signature, we will be better off with the agreement than to engage in a costly arms race.

Another area of progress is the declaration of principles committing both countries to seek peaceful solutions to their differences. Both this and the strategic arms limitation indicate a recognition of the folly of nuclear war. It is notable that general accord was reached in a number of areas. Environmental protection, medical research, and scientific and technical agreements between the two countries have been forged and there is to be a limited joint space effort.

I am convinced the President's trip to Russia is sound and has been in America's best interests. We are reaching understandings with Russia which can reduce world tensions and open the door to better relations. It is doubtful the President's trip will have an appreciable effect on the Vietnam war in the immediate future but at least the Russians are talking instead of reacting in force. That is a very important difference.

I applaud the President for his efforts. We must credit him with accomplishing more than any of his recent predecessors in his attempts to bring about better world understanding.

CALL OF THE HOUSE

Mr. KOCH. 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. 172]

Abernethy	Frelinghuysen	Mills, Ark.
Abourezk	Frenzel	Minish
Alexander	Frey	Mink
Anderson, Tenn.	Fulton	Mitchell
	Galifianakis	Mollohan
Ashley	Gallagher	Montgomery
Aspinall	Gaydos	Nichols
Badillo	Gettys	Obey
Baker	Gibbons	Pelly
Baring	Gray	Pickle
Barrett	Green, Pa.	Pike
Bell	Griffin	Podell
Bingham	Griffiths	Pryor, Ark.
Blanton	Gubser	Pucinski
Blatnik	Hagan	Rangel
Boland	Halpern	Rees
Brown, Ohio	Hanna	Reid
Broyhill, N.C.	Hansen, Wash.	Robison, N.Y.
Burleson, Tex.	Harrington	Rodino
Burton	Harsha	Roe
Byrne, Pa.	Hathaway	Roncalio
Caffery	Hawkins	Rooney, N.Y.
Celler	Hébert	Rosenthal
Chappell	Helstoski	Rousselot
Chisholm	Henderson	Roy
Clark	Hillis	Roybal
Clausen, Don H.	Holifield	Ruth
	Hutchinson	Ryan
Clawson, Del	Jarman	St Germain
Clay	Johnson, Pa.	Sandman
Conyers	Jonas	Sarbanes
Corman	Jones, Tenn.	Satterfield
Cotter	Kazen	Scheuer
Daniels, N.J.	Keating	Schmitz
Delaney	Klucynski	Sebelius
Dent	Kuykendall	Skubitz
Derwinski	Kyros	Smith, Iowa
Dickinson	Landgrebe	Springer
Dingell	Landrum	Staggers
Dowdy	Lloyd	Stephens
Drinan	Long, La.	Stokes
Dulski	Long, Md.	Stubblefield
Dwyer	Lujan	Taylor
Edwards, Ala.	McCloskey	Teague, Calif.
Eshleman	McCulloch	Tiernan
Evans, Colo.	McDonald, Mich.	Udall
Evins, Tenn.		Veysey
Fascell	Macdonald, Mass.	Wampler
Findley		Whalley
Fish	Mathis, Ga.	Wilson, Charles H.
Flynt	Mayne	
Foley	Melcher	Winn
Fraser	Miller, Calif.	Yatron

The SPEAKER. On this rollcall 278 Members have answered to their names, a quorum.

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

NONRETURNABLE BEVERAGE CONTAINERS

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

Mr. VIGORITO. Mr. Speaker, for a number of years I have devoted much time and effort in an attempt to solve some of the Nation's solid waste problems, especially the problem caused by nonreturnable beverage bottles and cans.

Throwaway containers are one of the greatest problems we face if we are going to clean up our countryside and if we are going to recycle our natural resources. Ever since I introduced a bill in the 91st Congress to ban the use of nonreturnable containers in interstate commerce I have seen a growing national awareness of the threat posed by throwaways.

It is with pleasure that I bring to the attention of my colleagues an excellent article on this subject printed in the May 12, 1972, issue of Life magazine, page 79. Written by Edmund Faltermayer and entitled, "The Returnables," this article puts the problem in excellent focus. We admit that bottles are not the only litter, and that they are not the entire solid waste disposal problem. Yet, as Mr. Faltermayer states, "even a small improvement is an improvement," and if we could control the indiscriminate throwing away of millions of bottles and cans, we would be making a big dent in the problem.

Mr. Faltermayer makes a few other good points: By returning to returnable bottles, we would conserve natural resources, we would save our bankrupt cities because there would be less trash to burn and bury and, finally, we could save the consumer money, because it is well known that products in returnable bottles cost less than when they are marketed in disposal containers.

I respectfully urge all my colleagues to read this excellent article in the May 12 issue of Life.

ADDITIONAL FUNCTION FOR SUBVERSIVE ACTIVITIES CONTROL BOARD

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 994 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 994

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. 9669) to amend the Subversive Activities Control Act of 1950, as amended. 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 Internal Security, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the text of the bill H.R. 11120 if offered as an amendment in the nature of a substitute for the bill H.R. 9669. If said substitute is not agreed to in the Committee of the Whole, it shall be in order to consider the amendment recommended by the Committee on Internal Security now printed on page 2, line 8 through line 21 of the bill, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of H.R. 9669 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 with or without instructions.

The SPEAKER. The Chair recognizes the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, this is an unusual rule and an unusual situation. Apparently, the matter that it brings before the House caused considrable division in the House Committee on Internal Security. In fact, it was necessary to provide for a waiver of points of order against the committee amendment,

which appears in the bill, because it was not germane to the bill itself.

The gentleman from North Carolina (Mr. PREYER) appeared before the Committee on Rules to ask for a special rule making it in order for him to offer, or for somebody to offer, H.R. 11120 which proposes an entirely new and different approach to the problem purportedly handled by the Subversive Activities Control Board and by the bill, H.R. 9669, which would change the Board's title.

I made the motion for this rule because I believe H.R. 11120, the proposition offered by the chairman of the committee, the gentleman from Missouri (Mr. ICHORD), and by the ranking majority member of the committee, the gentleman from North Carolina (Mr. PREYER), deserves serious discussion in debate.

The gentleman from North Carolina (Mr. PREYER) in his testimony made it quite clear that his proposition and the proposition of the gentleman from Missouri (Mr. ICHORD) did not have many supporters because apparently both sides of this old argument had decided already it was an unsatisfactory approach.

I suspect that there are a great many people on one or both sides of this argument who will find anything that can possibly pass the Congress unsatisfactory. I made the motion not that there is any hope of my supporting an old bill that I have opposed for many years but because for a long time I have thought it essential for the Congress to give careful consideration to the problem of subversives who use the freedoms that this society enjoys in order to destroy them.

I say that despite the fact that I think there is a whole new generation of Americans who believe that Senator Joe McCarthy of Wisconsin invented American Communists. I do not happen to agree with that, and I think it is predictable that subversion will be a problem in the future, as it has been in the past, and I think the Congress would be well advised to give serious consideration to trying to devise a constitutional way in which we can deal with the problem of loyalty.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

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

As the gentleman from Missouri has explained, House Resolution 994 provides for an open rule and 2 hours of general debate on H.R. 9669, and waives points of order on page 2, lines 8 through 21, because of germaneness. In addition, it also makes in order the offering of H.R. 11120 as an amendment to the bill. As I have said, it is an open rule and provides for 2 hours of debate. I reserve the balance of my time.

Mr. BOLLING. 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. ICHORD. 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. 9669) to amend the Subversive Activities Control Act of 1950, as amended.

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

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. 9669, with Mr. WRIGHT 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 Missouri (Mr. ICHORD) will be recognized for 1 hour, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 1 hour.

The Chair recognizes the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I yield myself 10 minutes.

The CHAIRMAN. The gentleman is recognized.

Mr. ICHORD. Mr. Chairman, H.R. 9669 is an administration bill drafted by the Department of Justice, introduced by the gentleman from Ohio (Mr. ASHBROOK) and referred to the House Committee on Internal Security.

I think, before moving into the terms of H.R. 9669, I should briefly review the history of the Subversive Activities Control Board. The Subversive Activities Control Board was established in 1950 for the purpose of providing a way of making public the identity, the purposes, and mode of operations of Communist organizations within the United States. The act was based upon the principle that an informed public is essential to the effective operation of our free institutions of government. This, I believe, is a valid principle.

However, the act went much further than disclosure by attaching certain disabilities to membership in subversive organizations. For example, section 5 of the act has made it unlawful for a member of either a Communist action group or a Communist-front group to hold a nonelective office of employment under the United States.

Section 6 made it unlawful for a member to apply for a passport. United States against Robel, a 1967 Supreme Court decision, struck down the prohibition on defense employment as too broad.

Section 6 was voided by Aptheker against the Secretary of State, a 1964 Supreme Court case.

These decisions and other decisions of the courts have circumscribed the act and restricted the work of the Subversive Activities Control Board. Also the work of the Subversive Activities Control Board has been restricted by the failure of the Attorney General to assign them work under the act. It is the Attorney General who must initiate proceedings before the Board. As a result, the Subversive Activities Control Board has not been busy in recent years.

The need for H.R. 9669 came into being when the President amended Executive Order 10450 by Executive Order 11605. Executive Order 10450 is the authorization by which executive agencies operate a loyalty and security program. Executive Order 11605 purported to assign—and by order of President Nixon to amend Executive Order 10450—to the Subversive Activities Control Board the function formerly performed by the Attorney General under the loyalty security program. Under 11605 the Subversive Activities Control Board will have the responsibility of designating subversive organizations, which I believe is a decided improvement, rather than have the Attorney General perform this task.

The Attorney General's list is now out of date. In fact, the Attorney General has made no designation since the year 1955.

Many constitutional lawyers have contended that the President had no authority to delegate this new function to the Subversive Activities Control Board, an independent quasi-administrative agency. This is one of the reasons for the committee amendment. The committee amendment authorizes the transfer of such duties to the Federal Internal Security Board.

Let us look at H.R. 9669 as originally introduced, and I think the Members can readily see the reasons for the amendment. Section 2 of the bill reads:

SEC. 2. The provisions of subsections (c) and (d) (1), (2), and (3) of section 13, and section 14 of the Subversive Activities Control Act of 1950, as amended, shall apply to proceedings conducted pursuant to section 12 of Executive Order 10405, as amended.

Subsections (c) and (d) (1), (2), and (3) of section 13, and section 14 provide for the power of subpena to be given to the Subversive Activities Control Board. They also provide for a court review of the proceedings of the Subversive Activities Control Board as well as providing for the punishment of misbehavior before the Board.

For the order of the President to be effective the Subversive Activities Control Board must have these powers to effectively function. However, regardless of whether the President had the power to delegate this function to the Subversive Activities Control Board, he did not have the power to give the Subversive Activities Control Board such things as subpena power and the provision for immunity and so on.

So, H.R. 9669 is definitely in order. As originally introduced, H.R. 9669 was drafted in a very unusual and I think inartistic manner. It would pick up sections 13 and 14 of the Subversive Activities Control Act of 1950 and state that they shall apply to proceedings conducted pursuant to section 12 of the Executive order as amended. This in effect would freeze the loyalty and security program and eliminate the advantage of flexibility inherent in a program operated under Executive order.

I suppose that under such a procedure if the Executive order were further amended the statute would go out the window because these powers are granted by the Congress under the bill and predicated upon the existence of the present language of Executive Order 11605.

I believe the Members can readily see the purpose of the committee amendment that has been adopted by the Committee on Internal Security.

Let me move specifically to the provisions of the act. By the amending order, 11605, President Nixon delegated to the Subversive Activities Control Board the function of making determinations of the character of certain subversive organizations in furtherance of the program established by Executive Order 10450. These determinations have hitherto been made by the Attorney General and, as I stated before, comprise the so-called Attorney General's list.

This list was circulated by the Attorney General to the heads of each department and agency of the Government as a guide to personnel or security officers and as an investigative device for ascertaining the suitability of individuals for employment in the executive branch.

Under the new Executive Order 11605 the Attorney General will retain responsibility for initiating proceedings for the designation of organizations but the Board will make the findings of fact.

The CHAIRMAN. The gentleman has consumed 10 minutes.

Mr. ICHORD. Mr. Chairman, I yield myself an additional 5 minutes.

The present Federal civilian employee loyalty and security program had its origin in Executive Order 9835, promulgated by President Truman in 1947. This order required a loyalty investigation of all civilian employees.

Under the security program operated under Executive Order 9835, the standard was whether there was reasonable doubt as to the loyalty of the individual applicant to the Government of the United States. It was provided that investigations pursuant to the order should be designed to develop information relating to an individual's membership in or association with groups described in the order simply as: First, totalitarian; second, Fascist; third, Communist; fourth, subversive; fifth, which have adopted or show a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States; and sixth, which seek to alter the form of government of the United States by unconstitutional means.

Investigation into this aspect of a person's conduct and activity was continued by President Eisenhower in the superseding Executive Order 10450.

Executive Order 10450 set up a new employment standard which was "whether or not the employment of the individual was clearly consistent with the interests of national security." So this is the standard that is being used at the present time under the loyalty and security program, that is, whether the employment is clearly consistent with the interests of national security.

It was a practice under both orders to require the Attorney General to furnish a list of organizations which he found after investigation to be of those categories. The list provided a basis for specific inquiries of applicants for Federal employment. In the Truman administration organizations were designated by the Attorney General without notice or without hearing. However, as a result of some litigation on the subject, the Eisenhower administration made designations only after notice and opportunity for hearing. In both administrations the Attorney General served as the initiator of proceedings and as the fact-finder in making designations of the described organizations. The Attorney General was both the prosecutor and the judge. So I think H.R. 9669 is a decided improvement, because it separates the initiating function from the judging function.

President Nixon's new amending order, 11605, would separate these above-mentioned functions. The Attorney General is required to continue his initiating function with respect to the designation process. However, the factfinding function is delegated to the Subversive Activities Control Board. The Board will determine the facts as to whether the organization is of the type that the Attorney General alleges it to be in his initiating petition.

Mr. ECKHARDT. Will the gentleman yield?

Mr. ICHORD. I will in just 1 minute.

The Board would thus serve a quasi-judicial function which it is well equipped to perform. As I stated before, it now performs a similar function under the Subversive Activities Control Act of 1950 in making determinations of the character of the Moscow-controlled Communist organizations as defined in the act.

I should point out to the gentleman who has arisen that the new Executive order does one thing further. It describes more fully the first four categories of organizations I have noted; to wit, totalitarian, Fascist——

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ICHORD. Mr. Chairman, I yield myself 3 additional minutes.

Totalitarian, Fascist, Communist, and subversive.

Personally, I believe that the language is not too well framed. The definitions appear to the extremely tautological, to say the least, and the language also refers to activities which seek to accomplish certain things. I did not know that activities had a frame of mind. An organization can have a purpose, but I did not know that activities had a frame of mind. For that reason the committee in its report has suggested to the executive that the program should be overhauled and be reformed by the President. This is the advantage of the committee amendment.

It does not require the granted powers to be dependent upon any existing order.

In conclusion, I would also like to note that, in dealing with the question of maintenance of the Attorney General's list, the committee's inquiry reveals there is literally a unanimity of opinion among the security and personnel officers of the agencies we have heard, and we have heard representatives of all the Cabinet departments of the Government and of 12 major independent agencies. Almost without exception, they have been in accord on the need of an updated Attorney General's list. Indeed, the failure to maintain it has been one of the most notable deficiencies in the administration of the Federal employee loyalty and security program.

Mr. Chairman, when we go back into the House, I will ask that a statement by the gentleman from North Carolina, subcommittee chairman, which was made at a hearing on March 16, 1972, be placed in the RECORD. I regard it as an important contribution to the literature on subjects with which we are concerned.

The statement follows:

STATEMENT BY THE HONORABLE RICHARDSON PREYER, CHAIRMAN, SUBCOMMITTEE ON LOYALTY AND SECURITY, HOUSE COMMITTEE ON INTERNAL SECURITY, SUBCOMMITTEE HEARINGS, MARCH 16, 1972

As you know, this subcommittee, consisting of myself as subcommittee chairman, together with Mr. Ichord who is chairman of the full Committee, and Representatives Claude Pepper, John M. Ashbrook, and Roger H. Zion, has been engaged in a study of the administration of the Subversive Activities Control Act of 1950 and of laws and procedures underlying the Federal Civilian Employee Loyalty and Security Program. More recently, several bills relevant to the inquiry, including H.R. 11120, H.R. 9669, and H.R. 574 have been referred to this subcommittee for consideration and report.

In the course of its inquiry, you will recall, the subcommittee has heard representatives of all cabinet departments of the Government (including the Post Office Department, now the U.S. Postal Service), and twelve major independent agencies, as well as the Subversive Activities Control Board. We now approach the close of the subcommittee's public hearings. In due course we shall make our report. I am pleased to take this opportunity to note that, on the whole, we have found the administrative and security officers of the departments and agencies to be frank and cooperative. We are grateful for their contribution to the subcommittee's efforts.

On the occasion of the appearance today of representatives of the Civil Service Commission, an agency which carries a heavy burden in the administration of the loyalty and security program, I am impelled to observe that I share certain apprehensions regarding the operation of this program. These arise because it is evident that there are some serious deficiencies in procedural aspects and regulations under which the program is administered. Yet it does not appear to me, nor is it my belief that the Civil Service is riddled with subversives. On the contrary, I believe that the employee recruitment program has operated generally to provide the Federal Government with a body of trustworthy, loyal, and effective public servants.

Nevertheless, figures brought to our attention indicate that the efforts of subversives to penetrate our Government, in some of its most sensitive agencies, has by no means abated. Some indication of the magnitude of the effort may be derived from the fact that full-field investigations, prompted by subversive associations of applicants for Federal employment, within recent years have numbered about 500 each year. That there has been some penetration of Government by subversives seems clear. Of the 20-odd agencies of Government of whom we have inquired, several agencies have advised us that one or more persons in their employ are present or past members of certain subversive groups.[1] Those of which we are informed do not appear to be significantly large in number. However, we cannot verify this information. It is an extraordinary fact that neither the Civil Service Commission, nor the several departments of the Government, maintain any separate indices with respect to persons employed in Government as to whom investigation has revealed past or present affiliation with subversive organizations.

[1] These responses are collected in Appendix C of the subcommittee Hearings, Part 4.

On the other hand, we do know that there are weaknesses in the procedures, the consequence of which must necessarily be that some subversives, however small their number, may pass through the screen. It is also clear that we seem to be having extraordinary difficulty in ridding ourselves of those of whom we are aware. Indeed, I have formed the impression—and this is on the basis of candid disclosures by experienced security officers in the major departments and agencies of Government—that there is really no program for the dismissal of persons on loyalty grounds from non-sensitive positions. It is a matter of significance, as well as a matter of surprise to me, that most agencies have told us they have ceased dismissing persons on loyalty and security grounds. Our examination of existing procedures in the major departments and agencies of the Government reveals that most of them have adopted no regulations to implement dismissals from non-sensitive positions on loyalty grounds. It is also a fact that although most agencies do have regulations implementing dismissals from sensitive positions on "national security" grounds, yet no agency within the past 5 years has dismissed any employee from any such position on loyalty or security grounds.

The agencies tell us that they have been advised to take that course by the Civil Service Commission and the Department of Justice. We are informed that they have been instructed to utilize "suitability" grounds—that is suitability grounds *other than* loyalty or security—in all cases. This, of course, assumes that other grounds may appear as a basis for dismissal when an individual's loyalty or security status is called into question. What happens when such other concurrent grounds do not exist? May we then presume that the loyalty or security risk is permitted to retain his employment?

The agencies in fact appear to take the view that the Supreme Court has said we cannot have a loyalty or security program in nonsensitive positions, in support of which the decision in *Cole* v. *Young*[2] is frequently cited as the culprit. It does not appear to me that the decision is the disaster it is said to be, or that it should have the effect which ostensibly has been attributed to it. It is of course true that the summary procedures for suspension and dismissal authorized by the Act of August 26, 1950[3] "in the interest of the national security" have been limited by the decision to positions determined to be sensitive on national security grounds. Moreover, it is the obvious effect of the decision that E.O. 10450 shall require appropriate amendment if it is to be applicable both to sensitive and non-sensitive positions as originally intended on its promulgation in 1953. However, the decision explicitly recognized that there is no absence of authority to dismiss employees on the ground of reasonable doubt as to loyalty, regardless of position, under the general personnel laws, particularly the Lloyd-LaFollette and Veterans' Preference Acts.[4] These congressional enactments provide liberal procedures for dismissals and, while requiring notice and an opportunity to respond, do not require confrontation or crossexamination of Federal witnesses.

So we must inquire of the Civil Service Commission why they have not, on the other hand, advised agencies to implement procedures for dismissals from non-sensitive positions on loyalty grounds under the Lloyd-LaFollette and Veterans' Preference Acts, or with respect to persons not within the purview of this legislation, then under such procedures as were employed in *Bailey* v. *Richardson*?[5] We must also inquire of them why they have advised the agencies not to process dismissals from sensitive positions on loyalty or security grounds as authorized by the Act of August 26, 1950 and as required by E.O. 10450?

Apart from *Cole* v. *Young*, we are also advised that other court decisions have had a significant impact on the loyalty and security program. These decisions, we are told, have virtually rendered removal actions based on membership impossible. There are difficulties, our witnesses have said, in proving what is conceived as the inflexible requirement of the cases that (1) the goals of the organization are unlawful, (2) the member has knowledge of these goals, (3) the member specifically intends to further and accomplish these goals, and (4) the member is an "active" and not merely passive or inert member. Mr. Mardian, Assistant Attorney General, Internal Security Division, in a statement to our Committee last July 29, 1971, expressed it as saying that some of the difficulties "have arisen as the result of court decisions which require that action can only be taken against an employee whom the Government can prove has knowingly involved himself in the illegal conduct of an organization in which he is active." Mr. Kevin T. Maroney, Deputy Assistant Attorney General, Internal Security Division, who appeared before us this January 27, 1972, put it this way: "The Supreme Court has indicated that only knowing and active membership in certain types of organizations, and not mere membership *per se*, can be the basis for governmental sanctions against an individual," for which he cites *Aptheker* v. *Secretary of State*, 378 U.S. 500 (1964); *Elfbrandt* v. *Russell*, 384 U.S. 11 (1966); *Keyishian* v. *Board of Regents*, 385 U.S. 589 (1967); *United States* v. *Robel*, 389 U.S. 258 (1967); *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969); *Baird* v. *State of Arizona*, 401 U.S. 1 (1971) and *In Re Stolar*, 401 U.S. 23 (1971).

I cannot fully agree with the propositions as stated by any of these gentlemen. The position they take is too rigid, too indiscriminate. Such unqualified representations have had the effect of discouraging, confusing, and disconcerting our security personnel. Although cases called to our attention by Mr. Maroney are typical of those frequently cited for the proposition which he and some others assert, they are all distinguishable from the situation under the Federal employee loyalty and security program either as currently authorized (pursuant to E.O. 10450) or as proposed in the bill, H.R. 11120. This fact indeed is made clear by Mr. Justice Goldberg, who wrote for the majority in *Aptheker*, a principal case cited by Mr. Maroney, in which a divided court voided section 6 of the Subversive Activities Control Act.

Section 6 to which I refer prohibited and made punishable the application for, or use of, passports by members of organizations required to register as Communist. It was voided on the ground that it "too broadly and indiscriminately restricts the right to travel and thereby abridges the liberty guaranteed by the Fifth Amendment." In determining the constitutionality of the provision, said Mr. Justice Goldberg, it was important to consider that Congress has within its power "less drastic" means of achieving the congressional objectives of safeguarding our national security. As an example of such means—and this is the point I wish to emphasize—he cited the Federal Employee Loyalty Program. "Under Executive Order No. 9835," he said, "membership in a Communist organization is not considered conclusive but only as one factor to be weighed in determining the loyalty of an applicant or employee." This was said in relation to footnoting the 1950 remarks of Peyton Ford, then Assistant to the Attorney General of the United States, in expressing to the Congress the views of the Department of Justice with regard to a proposed Government loyalty bill which predicated, as Justice Goldberg noted, a conclusive presumption of disloyalty on the fact of organizational membership. Mr. Ford is quoted as saying:

"A world of difference exists, from the standpoint of sound policy and constitutional validity, between making, as the bill would, membership in an organization designated by the Attorney General a felony, and recognizing such membership, as does the employee loyalty program under Executive Order 9835, as merely one piece of evidence pointing to possible disloyalty. The bill would brand the member of a listed organization a felon, no matter how innocent his membership; the loyalty program enables the member to respond to charges against him and to show, in a manner consistent with American concepts of justice and fairness, that his membership is innocent and does not reflect upon his loyalty."

Indeed, the latest and perhaps most relevant of the cited decisions, the case of *Robel*, does not support the rigid conclusion Mr. Maroney asserts. In voiding on the ground of "overbreadth" provisions of section 5 of the Subversive Activities Control Act which made it unlawful for a member of a Communist-action organization (in this case the Communist Party, USA) "to engage in any employment in any defense facility," Chief Justice Warren likewise appears to suggest a screening program as a permissible alternative. (389 U.S., at 266 f.) Moreover, the decision was understood by Mr. Justice White, in a dissenting opinion with which Mr. Justice Harlan joined, "to permit barring respondent, although not an 'active' member of the Party from employment in 'sensitive' positions in the defense establishment." Although concurring in the result, on the ground that there were no standards established for the designation of "defense facilities," Mr. Justice Brennan took the position that the Congress could as a "prophylactic" measure bar *all* Communist Party members, whether active or passive, from employment in defense facilities.

The remaining cases cited by Mr. Maroney are likewise distinguishable. In *Elfbrandt*, a State loyalty oath statute, subjecting the affiant to a perjury prosecution if he knowingly became or remained a member of the Communist Party, was voided because, here again, a disability was imposed resting upon a narrow fact of current membership of which the individual could not exculpate himself.[6] In *Keyishian*, sections of the New York State Civil Service and Education Law, intended to insure the employment of loyal teachers, requiring removal of teachers for "treasonable and seditious utterances," were held "unconstitutionally vague," and other provisions of the statute which made Communist Party membership prima facie evidence of disqualification were held void for "overbreadth," because by official administrative interpretations the presumption of disqualification arising from proof of "mere" membership was not fully rebuttable. *Brandenburg*, which involved an Ohio criminal syndicalism statute similar to the Federal Smith Act, appears to me to have been cited in error, for I see nothing relevant to the proposition for which it is cited.

Lastly, Mr. Maroney cites *Baird* and *Stolar*. These cases were decided together with *Law*

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[2] 351 U.S. 536 (1956).

[3] Now 5 U.S.C. 7531–7533.

[4] Respectively 5 U.S.C. 7501 and 7512, 7701.

[5] 181 F. 2d 46 (1950), affirmed 341 U.S. 918. Miss Bailey, a probational appointee, was dismissed from the Federal service because of alleged disloyalty in accordance with the standard established by E.O. 9835 (President Truman's "loyalty order"). Her dismissal under regulations of the Civil Service Commission rather than procedures of the Lloyd-LaFollette Act was sustained.

[6] This distinction has been advanced by the "Burger Court" in the latest decision on the subject. See *Connell* v. *Higginbotham*, 403 U.S. 207, decided June 7, 1971.

Students v. *Wadmond*, 401 U.S. 154 (1971), which he does not cite, although the trio involved the same, or similar, issues relating to applications for membership in State bars. The State requirements involved in Baird and Stolar were voided, whereas in Wadmond they were upheld. Actually, Wadmond throws some light in support of procedures laid down in H.R. 11120. In Baird and Stolar, applicants for membership in the State bars were denied admission for failure to respond to questions relating to membership in subversive organizations, whereas in Wadmond similar inquiries were upheld in which it appeared that no person was refused admission, and it further appeared that the inquiry had no purpose of "penalizing political beliefs," but was directed toward ascertaining the good faith with which an applicant could take the constitutional oath. Mr. Justice Stewart, writing for the majority in Wadmond, thought it important to point out that there was no indication that a New York bar applicant would not be given the opportunity to explain "any mental reservation" and still gain admission to the bar.

Litigation in which the agencies have been involved, unsuccessfully in several instances, has indicated that they have not availed themselves of procedural advantages. In the administration of the loyalty-security program, the role of presumptions with respect to knowledge and intent arising from proof of membership has been ignored, and the agencies have not taken into account the burden which should rest upon the applicant of coming forward with rebutting evidence upon proof of membership. See *Keyishian* v. *Board of Regents*, supra, at page 608. Certainly where the Government has established the character of the organization and has introduced evidence of the applicant's membership we may require the applicant to assume the burden of coming forward with credible evidence establishing (a) lack of knowledge of the purpose of the organization, and (b) lack of intent to further its purposes. The three-judge district court in *Law Students* v. *Wadmond*, (297 F. Supp. 117, at 125) had occasion to note the significance of distinguishing between a shifting of the burden of proof, which could be constitutionally impermissible, and the burden of coming forward with evidence, for which there is abundant favorable precedent. The court had occasion to say, "We see no reason why New York may not impose the latter with respect to a subject concerning which the applicant has detailed knowledge, but the committees will be required to make extensive investigation." Undoubtedly the utilization of such permissible and rational trial techniques would lighten the burden of the personnel and security officers in the administration of the loyalty and security program. We have seen no evidence that these useful and intelligible procedures are followed or promulgated.

It ought to be made clear, it appears to me, that the point of focus is not upon the organizational membership but upon the standard. To that end it is of no consequence whether that standard be, as in loyalty cases, loyalty to the Government of the United States, or, as in the bill H.R. 11120, good faith support of the Constitution of the United States, or, as in national security matters, clearly consistent with the interests of the national security. There should be no doubt that we are looking to the nature and character of the individual's activities or associations in their totality, and that the purpose of the inquiry is not punishment, but enlightenment, with assurance to the individual that he shall have full opportunity to respond to the issues and to the investigation. This, I believe, to be the true distillation of these most recent decisions of the Court. It is, in my opinion, the essence of such cases as *Robel* and *Aptheker*.

Indeed, when we talk of organizational associations, are we not endeavoring to determine whether the individual is committed to a purpose or ideology inconsistent with the faithful and most efficient execution of his responsibilities to the Federal Government? To make this judgment, we cannot literally look into the individual's mind, but we seek to read it in the only way possible, and that is on the basis of his actions. It is in objective manifestations by deed or speech that intent or purpose should be proved in this as in other cases. In making these determinations, we cannot adhere to rules or limitations which defy reality.

Organizational membership is significant and objective evidence of an individual's commitment to a particular purpose or ideology. It must be recognized, however, that we are dealing with a complex and subtle area of inquiry. Certain organizations, such as those in the Communist movement, have a detailed doctrinal base. We must be able to discriminate among varying types of action and auxiliary organizations and the significance of an individual's relationship to each. We must take into consideration the nature of the position which the applicant seeks. Is he, for example, seeking employment in a position to which he will have access to top secret defense information? Here, past membership in a subversive organization may be significant, particularly when it is evident that the individual has recently severed membership for the purpose of seeking sensitive employment.

When we talk of "active" and "knowing" membership, are we not only reciting some evidential factors which relate to the ultimate question of purposive membership? Is the fact that the individual is inactive necessarily an exculpating fact? On the contrary, it may be significant, particularly where there is reason to believe that the individual is a "sleeper" in the Communist Party, or has discontinued activities and severed all contact with the Party for the purpose of later surfacing and undertaking a special mission on its behalf. May an individual be a loyalty and security risk who does not accept, or share, the illegal means of purpose of the organization? Certainly if the individual shares the ultimate political objective of the organization, but takes the position that, while he himself would not attain it by illegal means, he will nevertheless stand by and not oppose those who would, can one say that such a person "supports" the Constitution or is fit for Federal employment?

I would like to say that I am coming increasingly to the view that some of the principal deficiencies in the loyalty and security program can, and should, be resolved by executive action. Other deficiencies must be resolved by legislation. The advantages of flexibility inherent in executive action has much to commend it in this difficult field of trial and error, rather than the more rigid route of legislation, although these are certain areas which undoubtedly require the base of legislative authority or the impetus of legislative action. I am not unmindful of the failures of executive action during the years since the enactment of E. O. 10450. It may be argued, with good reason, that in placing our reliance on executive action we have had little evidence to comfort us in this approach. Nevertheless, this subcommittee shall make its report on existing deficiencies, and we shall hopefully make several recommendations for executive action. If we see no beneficial response to this course, we may then take the alternative route of mandatory legislation.

The bill H.R. 11120 provides the necessary legislative base for the erection of a Federal Employee Security and Appeals Commission which would follow upon the repeal of the Subversive Activities Control Act. The provisions of the bill which establish a mandatory loyalty-type standard for Federal employment are intended to give legislative impetus to the loyalty program which, as the investigation indicates, has so seriously deteriorated since the decision in *Cole* v. *Young*. It is my position that the Federal Government must have, and maintain, a district loyalty program for access to all positions in Government. Apart from ethical concerns, the maintenance of a loyalty standard involves the question of efficiency. It is a means of giving assurance that the operation of the Government will not be sabotaged, impeded, or obstructed by individuals who are not committed to its successful operation, or who are committed to its failure and destruction.

I would like to observe in conclusion, that the difficult question, it appears to me, in the maintenance of the loyalty and security program has not been with the sensitive policy-making positions, but with respect to the great mass of positions which have been commonly, although not always accurately, referred to as non-sensitive. I am speaking now from the standpoint of investigation for clearance. It is evident that we cannot afford investigations of a full-field type for all positions, either from a point of view of what it would cost, or from the point of view of what it would do to civil liberties in this country. That we must have some degree of investigation seems clear. If there are no investigations, or if the investigations are largely ineffective, it is not inconceivable that the Government would ultimately be overrun, and in a substantial degree immobilized, by persons hostile to its purposes. I think that this matter can be worked out along lines provided in the bill, H.R. 11120.

Certainly no argument is necessary to support the proposition that the Government and people of the United States have a most vital and imperative interest in maintaining the integrity of its civil service. It was a bitter experience to learn not so long ago of the loss of our atomic secrets, because of the deep penetration made into our scientific community by individuals committed to the Communist ideology. However, excesses that may follow upon a failure to maintain public confidence is, in my opinion, the true, and perhaps most abiding, lesson of the McCarthy era.

Mr. Chairman, I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. I thank the gentleman for his explanation.

I rise to seek some clarification standard as to the relationship between the Attorney General and the Board itself.

As I understand the gentleman's explanation, the Attorney General would, in effect, be the prosecuting body and the Federal Internal Security Board would be the factfinders, so to speak?

Mr. ICHORD. That is quite correct, and the Federal Internal Security Board would be the quasi-administrative or quasi-judicial agency, an independent agency, whose members are appointed by the President and confirmed by the other body.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, I would like to direct his attention to lines 11 and 12 where there is the expression "or such other persons as the President may empower"——

It seems to me extremely dangerous to permit the President to appoint ad hoc prosecutors. That seems to be to lend itself to demagogy.

Mr. ICHORD. That language was placed in the amendment giving the President that authority, and it may well

be that the President would want to delegate the prosecution function to the legal arm of some independent agency of Government.

For that reason, it was thought that the President should not be restricted in this delegation of this power to the Attorney General.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. ICHORD. Mr. Chairman, I yield myself 1 additional minute.

Mr. ECKHARDT. Mr. Speaker, if the gentleman will yield further, that is precisely the thing that troubles me when we are dealing with courts, when we are dealing with instrumentalities created by Congress, when we are dealing with the Attorney General as a Cabinet officer, we may expect that there will be some traditional limitation on this body as to the authorization of such other persons to act as prosecutor. To me that would be as if, for instance, we permitted the President to appoint some ad hoc prosecutor in the field of labor relations or antitrust or other areas of governmental enforcement.

It seems to me tremendously dangerous. I know the gentleman from Missouri is a careful constitutionalist and would be as concerned as I am.

Mr. ICHORD. May I point out to the gentleman that we are not specifically authorizing a loyalty security program by this legislation. The loyalty security program is already in operation.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. ICHORD. Mr. Chairman, I yield myself 1 additional minute.

The CHAIRMAN. The gentleman is recognized for 1 additional minute.

Mr. ICHORD. The loyalty security program is already being operated under Executive order. So, we are not changing the present law. The present law is such that the President would have the power to delegate to any such person, in addition to the Attorney General, because he does not receive that authority under this specific act today.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. ICHORD. Yes; I yield further to the gentleman from Texas.

Mr. ECKHARDT. If that be true, and in order to avoid the encouragement of ad hoc prosecutors, would the gentleman agree that that language might well be taken out and that the removal of that language would improve the bill?

Mr. ICHORD. I would see no particular need for amending the committee amendment to that extent. I think that the President can be trusted to delegate this function to a very responsible agency or individual.

Mr. Chairman, I reserve the balance of my time.

Mr. ASHBROOK. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I wish to speak in strong support of the administration's bill, H.R. 9669, to amend the Subversive Activities Control Act of 1950. This bill, introduced by myself, and amended by the distinguished gentleman from Missouri, Chairman ICHORD, was reported out of the committee on April 25, 1972, on a vote of five ayes including that of Mr. ICHORD, and one nay. The distinguished gentleman from North Carolina (Mr. PREYER) voted present.

On May 25, 1972, Mr. PREYER issued a letter to all Members of the House in which he announced that at this time he would offer an amendment to the above H.R. 9669 by way of substituting for it H.R. 11120, a bill introduced by Mr. ICHORD and Mr. PREYER. This bill would repeal the Subversive Activities Control Act with its numerous prescriptions and criminal penalties on a wide variety of subversive operations and substitute for it a whole new bureaucracy to administer a Federal security program based upon the concept that an applicant for Federal employment would be required to take an oath that he would in good faith support the Constitution of the United States and would be denied employment only if it appeared there was a reasonable doubt that he would support the Constitution. I am opposed to H.R. 11120 which would substitute a single, narrow, untried program for two broad programs that have proven effective over more than 20 years and have withstood constitutional tests in their essential aspects.

To understand and evaluate these two bills I believe it desirable to review briefly the evolution of the problem.

PREVIOUS LEGISLATION AND EXECUTIVE ORDERS

Until July 1971, the Government's program for the control of the Communist Party, U.S.A., its fronts and infiltrated organizations was separate and distinct from its Government employee loyalty and security program.

The former resulted from the Subversive Activities Control Act passed by the Congress in 1950 with findings, accurate at the time, which in effect limited its exposure and proscriptive provisions to Communist-action organizations controlled directly or indirectly by the Soviet Union and to the Communist front organizations controlled by such a Communist-action organization. In 1954, the Act was amended by the Communist Control Act which included exposure and proscriptive provisions for Communist-infiltrated organizations, again limited in its application to Moscow dominated Communists.

Throughout the 1950's the Attorney General initiated proceedings against the Communist Party, U.S.A., as a Communist-action organization and against 20 of its fronts. Following 10½ years of litigation, the Supreme Court on June 5, 1961, upheld the constitutionality of the Subversive Activities Control Board and its finding that the Communist Party, U.S.A., was a Communist-action organization and the Board's order to register. However, subsequent judicial decisions found some of the proscriptions and penalities of the act to be unconstitutional so that by the 1968 amendment to the act it was desirable to conform the act to judicial decisions.

In the meantime, new categories of Communist-action, front and infiltrated groups, not Moscow controlled, have evolved which are not covered by the act as amended in 1968. They include followers of Mao, the Trotskyites and several varieties of homegrown communism not dominated by a foreign power. Under the present Subversive Activities Control Act it is not possible to proceed against such organizations.

Due in a large measure to the above changes in the world Communist movement and the fact that as a result of SACB proceedings, few new Communist Party, U.S.A., fronts have been formed. Only four new Board proceedings have been initiated by the Attorney General in the last 7 years, two of which are pending in an inactive status and two in an active status.

A measure of the effectiveness of this program is that of the 23 fronts against which proceedings were initiated, eight dissolved before they could be served with process and the others, with the exception of two, have since dissolved or disbanded. The remaining two are dormant and may expire at any time.

Our Government employees loyalty and security program has its modern origin with Executive Order No. 9835 promulgated by President Truman on March 21, 1947. This order, in brief, established criteria for loyalty of Government employees and required the Attorney General to furnish the Civil Service Commission with the names or organizations which were Communist, Fascist, subversive or which sought to deprive others of their constitutional rights by illegal means. Thus was founded the so-called Attorney General's list. The concept was continued and broadened by President Eisenhower in the publication of Executive Order No. 10450 in April 1953.

Those organizations designated under the previous Executive order were redesignated under Executive Order No. 10450. Such designations were made in nonadversary closed administrative actions. A total of approximately 283 organizations were included on the list. Shortly after the promulgation of this order a series of judicial decisions including that of the joint Anti-Fascist Refugee Committee against McGrath and National Lawyers Guild against Brownell indicated the desirability and the necessity of the designations of such organizations only after adversary proceedings in which the principles of due process were observed including the right of appeal. The requirement for due process in such proceedings ended designations under this Executive order in 1955 as the executive branch did not have the authority to confer upon these proceedings the powers of due process to include the right of subpena, the power to administer an oath and the right of judicial appeal.

On July 2, 1971, Executive Order No. 11605 was published which amends Executive Order No. 10450 by conferring upon the SACB those powers to designate organizations formerly held by the Attorney General. In addition, the Executive order broadens the scope of organizations covered thereby and defines the terms totalitarian, Fascist, Communist and subversives and establishes criteria for the designations of such organizations.

Since the promulgation of this last Executive order it has been contended by

organizations seeking to judicially overthrow the order, that the executive lacks the power to transfer from the executive branch to a congressional created body the functions formerly exercised by the Attorney General. It is also probable that the executive lacks the authority to provide for subpena power and the right of judicial appeal.

Notwithstanding the fact that no organizations in which membership or sympathetic association is one factor to be considered in the employment or retention in employment of government employees, is affirmed by all of the agencies most concerned with employee loyalty and security that have testified before the Internal Security Committee. All but about 20 of the original 283 organizations are now defunct in a substantial part, due to the fact, that their designation has deprived them of membership and a loss of financial support because of the loss of tax exemptions both for the organization and would-be donors.

THE ADMINISTRATION'S BILL—H.R. 9669

H.R. 9669 would amend the Subversive Activities Control Act of 1950 as amended, by changing the name of the SACB to the Federal Internal Security Board and section 2 of this amendment would also give congressional authorization to the President to transfer to the SACB such functions in this area as he may see fit and would also empower the Federal Internal Security Board to extend these trappings of due process to proceedings brought under Executive Order 10450 as amended that are now available under the Subversive Activities Control Act which, as we have said, has been held constitutional in this regard.

The adoption of H.R. 9669 would have the effect of combining both the Communist control program, including not only Moscow-dominated organizations but also Maoist, Trotskyites, home-grown Communist and the violence-prone organizations with the Government security and loyalty program. This provides a governmental purpose and interest in the exposure of all of those organizations that would come within the definitions contained in both the 1950 Act and the amended Executive order. The importance of this is pointed up by the occurrences in this city within the last few days. Those organizations whose activities have had the announced purpose of the disruption of the Government through violent illegal action would, upon the production of evidence in full adversary proceedings, be sufficient to support a designation by the Internal Security Board under this proposed amendment. The designation of such organizations would not necessarily result in the complete disqualification of members from Government employment. But, if upon inquiry, if it appeared that an applicant for Government employment was a knowing and meaningful member of such a designated organization, that fact would be an element for consideration along with all other aspects of the individual's background in determining whether or not he met appropriate standards of loyalty and security for the position sought.

Testimony before the Internal Security Committee has indicated that little more can be done under the present narrow limits on the Subversive Activities Control Act or under the above Executive orders without the passage of an amendment such as the one we are presently considering.

It is noteworthy that all of the executive agencies as well as national patriotic agencies, whose views have been solicited, and have testified in hearings have supported this bill in its original form. In these same hearings, every agency opposed directly or by implication, H.R. 11120, the Ichord-Preyer bill. This includes those executive agencies most concerned with employee loyalty and security such as the Civil Service Commission, the Department of Justice, the Department of State, Department of Defense, and the U.S. Postal Service.

It is axiomatic that a primary obligation of any government is to defend itself against those who would destroy it either from the outside or internally. Therefore, we believe, that this Government has a duty to define, to discover and to expose those organizations which are attempting to subvert or destroy this Government from within and to take all needful steps to preclude the employment of members of such organizations in branches of Government where their employment is not clearly consistent with national security.

There is little good that I can say for H.R. 11120. As Mr. ICHORD said when he voted for H.R. 9669 in the committee and as Mr. PREYER and Mr. ICHORD said before the Rules Committee, H.R. 11120 simply does not have a constituency. This is for good reasons, I believe.

H.R. 11120 would repeal the Subversive Activities Control Act of 1950, abolishing the Board and nullifying the Government employee loyalty and security program established by the above Executive orders. That bill would create a whole new bureaucracy to administer a Federal security program based on requiring Federal employees to take an oath that they will in good faith support the Constitution of the United States and that persons will not be employed where there is a reasonable doubt that they will not in good faith support the Constitution. Whose concepts of "good faith" and whose interpretation of the Constitution shall be supported? Chairman Mao's, Moscow's, Castro's, the SDS Weatherman's? I believe that Mr. PREYER concedes that there is a problem of vagueness.

The repeal of the Subversive Activities Control Act would largely nullify more than 20 years of effort by the Attorney General, the SACB and the judiciary in the Communist control program. The adoption of the substitute bill would also largely nullify 30 years of effort, administrative decisions and judicial decisions in the Government employee security program. Should any essential particular of the substitute bill be found unconstitutional by the courts the Nation would be without either a Communist control program or a Federal employee security program.

Of equal importance is the fact that the substitute bill if enacted would leave the American people unprotected from a variety of subversive operations according to the testimony of the Department of Justice and of Dr. Charles Rice, professor of law at Notre Dame University. The Ichord-Preyer proposal, by discarding the 1950 act would eliminate laws making it a crime:

First. For anyone to knowingly combine, conspire, or agree with another person or persons to perform acts which will contribute substantially to the establishment in the United States of a totalitarian dictatorship—Communist, Nazist, Fascist, or any other type—dominated or controlled by a foreign government—section 4(a).

Second. For officials and employees of the U.S. Government to communicate classified security information to representatives or agents of foreign governments, to members of the Communist Party, or to members of groups found to be Communist fronts or Communist-infiltrated organizations by the Subversive Activities Control Board—SACB—without first obtaining permission of appropriate authority—section 4(b).

Third. For agents and representatives of foreign governments, members of the Communist Party and members of groups the SACB has found to be Communist fronts or infiltrated, to obtain or receive classified security information from officials and employees of the U.S. Government without special authorization of appropriate authority—Section 4(c).

Fourth. For members of the Communist Party and members of groups found to be Communist fronts by the SACB to seek, accept and hold Government employment while concealing their membership in these Communist organizations—Section 5(a)(1)(A).

Fifth. For Communist Party members and member groups found to be Communist fronts by the SACB to hold government positions—Section 5(a)(1)(B).

Sixth. For Communist Party members and members of organizations found to be Communist fronts by the SACB to seek, accept and hold jobs in defense facilities while concealing the fact that they are members of Communist organizations—Section 5(a)(1)(C).

Seventh. For officials and employees of the United States to contribute funds and services to the Communist Party and to groups found to be Communist fronts by the SACB—Section 5(a)(2)(A).

Eighth. For U.S. officials and employees to advise, counsel, or urge members of the Communist Party and SACB-found fronts to seek, accept, and hold employment in the U.S. Government and in defense facilities while concealing the fact that they are members of Communist organizations—Section 5(a)(2)(B).

Ninth. For the Communist Party and organizations found to be Communist fronts or Communist-infiltrated groups by the SACB to distribute material in the mail, broadcast material via radio and television, and solicit money through the mail or by broadcasting, without revealing the fact that the SACB has found them to be Communist—Section 10.

Tenth. Failure to file registration statements under the Foreign Agents

Registration Act is a continuing offense as long as the failure exists—Section 20.

Eleventh. It is a misdemeanor for anyone to wilfully violate orders and regulations issued by the Secretary of Defense and various other authorities for the protection or security of military or naval aircraft, airports, vessels, harbors, piers, bases, ports, laboratories, explosives, vehicles, and so forth, against misuse, destruction, loss, or injury by fire, accident or by enemy action, sabotage, or other subversive actions—Section 21 (a).

In addition, repeal of the act will eliminate provisions:

Twelfth. Authorizing the Secretary of Defense to designate defense facilities in which members of the Communist Party and SACB-found fronts will be barred from seeking, accepting, and holding employment unless, in doing so, they reveal their membership in these Communist organizations—Section 5(b).

Thirteenth. Denying tax deductions for contributions to the Communist Party and to groups found to be Communist fronts or infiltrated organizations by the SACB—Section 11(a).

Fourteenth. Denying exemption from Federal income tax to the Communist Party, and to organizations bound to be Communist fronts and Communist-infiltrated by the SACB—Section 11(b).

In addition, the substitute bill would seriously limit the types of organizations that could be designated for consideration in determining a person's employability to three categories. These are: first, organizations seeking the overthrow of the Government by force and violence or other unlawful means; second, organizations which advocate as a principle to be translated into action the propriety of resistance by force to the execution of the laws of the United States or engaging in a rebellion or insurrection against the authority of the United States; and third, fronts or subdivisions of first and second. Such categories are not nearly so broad or as specifically defined as those subject to designation under Executive Order No. 10450 as amended by 11605.

The Postal Service and the Civil Service Commission testified that the preemployment investigation requirements of the bill would be unbearably expensive and the delays would completely disrupt employment practices in the great majority or nonsensitive positions.

Again, I think it of utmost importance that of all the agencies invited to testify or submit views upon H.R. 11120, those that did so opposed it. It is also opposed by government employee unions, the Veterans of Foreign Wars and the American Legion.

In conclusion, I can see no merit in the bill to be offered by the distinguished gentleman from North Carolina as a substitute for H.R. 9669. The substitute bill would cast aside all of the effort of nearly 30 years and entrust these aspects of national security to an untested concept of an oath to support the Constitution in good faith. The administration's bill would continue in one agency, two programs that have been, upon all the evidence, effective for more than 20 years and need only the updating that would be made possible by this bill.

Your support for H.R. 9669 will be welcomed.

The statements of the late J. Edgar Hoover as well as the representatives of the Communist Party, its "front" organizations and its individual apologists, indicate that the repeal of the Subversive Activities Control Act is a primary CPUSA tactical objective. I hope that this body will not accommodate their ambition.

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

Mr. ASHBROOK. I yield to the gentleman.

Mr. YATES. Mr. Chairman, in view of the gentleman's last statement, where the gentleman just stated that it is important that we take such steps as may be necessary to preclude employment of those people who are members of such organizations, a few moments ago the gentleman indicated this was only one factor in employment. How does the gentleman reconcile those two statements?

Mr. ASHBROOK. Again it goes back to the evaluation of the department or agency concerned to evaluate the significance of an individual's membership in an organization and its relationship to the employment criteria which is that his employment must be clearly consistent with national security. Membership could have been at a time when he did not understand the true purposes of the organization. I would say a person who was a leader in any of these organizations attempting to overthrow the Government, in my judgment, not as an employing officer, but as a Member of the Congress, should not receive employment, and a person who only belonged and who did not have a leadership position and did not necessarily subscribe to their views, might have changed his opinions. I may say mere membership in an organization should not necessarily exclude the prospective employee or the employee but it is one factor to be considered by the employing agency in determining whether he meets the security criteria.

Mr. YATES. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. Yes, I yield to the gentleman from Illinois.

Mr. YATES. What has happened over the past 10 years since the Supreme Court decision holding unconstitutional the thrust of the previous legislation? What has been the practice in the Government agencies in hiring employees? Have we suffered any danger as a result of not having legislation of this kind on the books?

Mr. ASHBROOK. Again I say to the gentleman—and I think the gentleman from North Carolina would substantiate this—witness after witness representing executive agencies of the Government and departments of the Government have indicated, for all intents and purposes, there is very little they can do at the present time. It does present a problem to them, and the passage of this bill would help them in meeting the problem we are talking about.

As to whether or not the Government has collapsed in the last 10 years, obviously it has not, but it has been a problem which has been recited time after time by witnesses before our committee.

Mr. YATES. Mr. Chairman, will the gentleman yield further?

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

Mr. YATES. Have the witnesses testified that where the employees referred to were members of organizations that witnesses considered to be inimical to the best interests of the United States, that action could not be taken to check those employees, to suspend them, or to terminate their employment?

Mr. ASHBROOK. The point the gentleman makes is accurate. They are not able even to take into consideration membership in these organizations. Maybe in the backs of their minds they might think it is a red flag or something they should watch, but because a suspect organization has not been designated, because no organizations can be designated, there is no way an employment department or personnel office or anybody in security who might be charged with reviewing the background of an employee who is on the rolls—there is no lawful way they can take into consideration membership in undesignated organizations, and that is precisely what we are trying to rectify in this legislation.

Mr. YATES. But the gentleman has indicated that mere membership in organizations is not sufficient to terminate employment.

Mr. ASHBROOK. Mere membership is not. It is one factor, that is correct, and membership in these suspect but undesignated organizations cannot even be considered; that is the point I would like to make.

Mr. YATES. That is correct. The employee has to stand upon his merits as an employee without respect to his associations in any organization, and if he is not a good employee or a loyal employee, his employment can be terminated under present procedure; can he not?

Mr. ASHBROOK. I would say that that is not exactly accurate, I say to the gentleman from Illinois.

Mr. YATES. Where is it not accurate?

Mr. ASHBROOK. Because when you use the word "loyal," whether or not he is loyal cannot be evaluated on the basis of these suspect but undesignated organizations, because there has been no finding that it in fact merits designation. If you have Organization X which is dedicated to the overthrow of the Government but is not designated, the reviewing personnel officer cannot take his membership into consideration.

Mr. YATES. Does he not take the same oath that Members of Congress take to support and defend the Constitution of the United States?

Mr. ASHBROOK. Yes; and Communists in the past who have been desirous of subverting the Government have taken that oath. So I do not think that is anything in which the gentleman can place his trust.

Mr. YATES. But if he is not willing, in fact, to sustain and support the Constitution of the United States, can he not be liable for perjury?

Mr. ASHBROOK. I have yet to see a

case where that would happen. By the time that is discovered the individual is guilty of treason, espionage, or one of the many crimes punished by the Subversive Activities Control Act and is in Cuba or the Soviet Union.

Mr. YATES. Well——

Mr. ASHBROOK. Would the gentleman recount a situation where a mere prosecution for perjury would take place?

Mr. YATES. I would certainly think that mere association in such an organization would not be inimical——

Mr. ASHBROOK. That is correct, mere association would not be inimical.

Mr. YATES. The true test is whether or not he is a person who is willing to stand by the oath, to sustain the oath he has taken to support and defend the Constitution of the United States. As the gentleman has indicated, his membership in these organizations is not the test. Therefore, why is not the present condition the true test?

Mr. ASHBROOK. I would merely say in response to the gentleman that the true test is not necessarily whether he takes the oath or not. The true test is whether his true intention is to uphold the Constitution.

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

Mr. ASHBROOK. I yield to the chairman of the committee.

Mr. ICHORD. It seems to me the gentleman from Illinois has failed to grasp how the loyalty security program under Executive Order 10450 operates, and I think we have to distinguish between a preemployment investigation, and we have to distinguish between the case of the retention of the employee. Now, under section 10450, all positions in Government are divided into sensitive and nonsensitive positions.

If we are dealing with a sensitive position, there has to be a full field investigation of the individual. If we are dealing with a nonsensitive position, there does not have to be a full field investigation. As a matter of fact, usually there is no investigation whatsoever.

Mr. ASHBROOK. None at all in many cases prior to probationary employment.

Mr. ICHORD. And the standard for employment under this program is whether his employment is clearly consistent with the national interests. The employment standard is the key thing.

The gentleman from Ohio has correctly pointed out a person's membership in a subversive organization is just one of the factors to be taken into consideration. I would point out, however, that once it appears that an applicant for employment is a member of a designated subversive organization, the red flag goes up, and under Executive Order 10450, a full field investigation is required.

Mr. ICHORD. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, even if I did not believe as strongly and sincerely as I do that H.R. 9669 and H.R. 11120 run roughshod over the vital first amendment rights of the people of this country, I would rise in opposition as vigorously as is possible to prevent this Congress from again attempting, in still another area, to abdicate it's legislative authority to the executive branch of government.

The separation of powers contained in our Constitution, brilliantly conceived by the founders of this great country, was meant for the protection of our freedoms by this unique set of political checks and balances. However, this great system falls seriously out of balance when the legislative branch writes a blank check to the executive branch.

Besides the unconstitutional infirmities under which these two pieces of legislation are heavily burdened, I can never understand the apparent willingness with which Congress gives up its constitutional authority and perogatives in so many vital areas. It is bad enough, that we fail to fight back when we see the executive branch usurping our authority, but why we abdicate it without even being asked is more than I can understand.

H.R. 9669 which would authorize the President to use any criteria he chooses to ask the SACB to investigate and label organizations relevant to an employee's loyalty would totally abdicate congressional responsibility to establish legislative standards for the President to implement.

This bill is a clear example of our unconstitutional transfer of legislative authority to the executive branch. Under H.R. 9669 the Congress vests in the President total, unfettered, and absolute power to write the loyalty-security laws of the United States.

Certainly, if we are going to permit and commit this abrogation of legislative power, it is only fitting that we do it with H.R. 9669, which itself stands a better than even chance of being declared unconstitutional.

One of the very best synopses of the history of this entire area was made by Chairman ICHORD of the House Committee on Internal Security in his remarks to the House on June 2, 1970, when he announced the inquiry into the operation and administration of the Subversive Activities Control Act of 1950 and the operation and administration of laws and procedures relating to Federal employment security. This statement appears also beginning at page 5123 of the hearings themselves.

Chairman ICHORD states therein after carefully charting the course of the act and noting various court decisions and their effect:

> We have thus not only the question of the necessity for the revival and maintenance of these programs, but whether in light of the weaknesses in the programs, either or both should be maintained at all.

Chairman ICHORD also stated that:

> Moreover, in the balancing of the ostensible requirements of national security with individual liberties, particularly in the context of the ideals and basic premises of a libertarian society, we shall be faced with issues of profound constitutional and philosophical import. We shall need, and we shall seek, the assistance of our best minds and most informed experts in fulfilling the urgent task before us.

In looking over the first three volumes of the hearings—and I understand there is a fourth volume, not yet printed—I note with interest that these best minds and most informed experts all work for the U.S. Government and are involved in employee security—loyalty programs under existing law—positions from which an objective view may not be easily reached.

Testimony by John Mahan, Chairman, SACB, testimony by Timball Johnson, Director, Bureau of Personnel Investigations, Civil Service Commission. Testimony by Paul J. McNichol, Assistant Director, Security, USIA, and so on through the agencies—the witnesses from each of the major departments of the executive branch.

Now while I will stipulate that all of these gentlemen are informed experts, I cannot stipulate that they represent the only informed experts or even a cross section of informed experts. Are there no constitutional scholars to explore the profound constitutional and philosophical issues? No great civil libertarians to represent the view of our libertarian society? No. Apparently the sum total of these hearings is a bill, H.R. 9669, never considered in these hearings which, as originally introduced, attempted to clarify and incorporate into the act by reference Presidential Executive Order 11605. This Presidential Executive order appeared the day after John Mahan, Chairman of SACB, testified before the Senate Appropriations Committee that "We do not have enough time." That Executive order attempted to remedy the situation in open contravention of Congress' right to legislate SACB functions. As a result of that Executive order nine groups brought suit in U.S. District Court for the District of Columbia.

In a case entitled "American Servicemen's Union against Mitchell," the Court clearly intimated that Executive Order 11605 was unconstitutional. It was then clear that H.R. 9669 as originally introduced stood little chance of curing a long line of constitutional defects. This amended bill strikes the original bill's references to Executive Order 11605. It replaces them with a wholly vague, undefined, and unlimited transfer of legislative authority to the President or his designee. It enables them to create any criteria they want with respect to the character of relevant organizations which the SACB may use as a basis for Federal agencies to exclude on "loyalty" grounds prospective and existing employees.

History and the courts have shown us that the Subversive Activities Control Act of 1950 was bad law. A long line of court decisions stand today as testimony to that fact. Experience should at least tell us not to duplicate the mistakes of the past. The Supreme Court has pointed out time and again the dangers and infirmities with which this type of legislation is burdened.

To expand the authority of the SACB in light of its nonfunctioning condition might seem to some a logical thing to do. But here we give to Presidents present and future unconstrained authority to enlarge the areas of impermissible associations.

No citizen would have a guide as to what he could say or what group he could join without placing his job and

future in jeopardy. This "chilling effect" on freedom of association and of speech is more than a chill, it is a deep freeze.

Clearly, there is a need for a legitimate program carried on in the interests of our national security, but I submit that the loyalty-security program carried on by all agencies and branches of our Government, counseled by the Department of Justice, and aided by the FBI, appears also in the light of experience and history to be adequate for these purposes. A return to the dark days of guilt by association and witch hunting is not required.

Narrowly drawn legislation, ever so carefully delineating the lines of balance between the legislative purpose and individual rights is what is needed in this area, not expanded powers or unlimited authority.

I respectfully urge your no vote on H.R. 9669.

H.R. 11120 offered as a substitute is not a substitute for what exists. It repeals and changes entirely our present Federal employee security program. It is major legislation which has not been considered by the full Internal Security Committee or any other congressional committee.

The difficulties and differences which are apparent within the Internal Security Committee itself on these pieces of legislation are reason enough to reject both.

Both approaches are wrong and I urge you to vote against them.

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

Mr. EDWARDS of California. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, in explanation to the gentleman from California, I would point out that a subcommittee of the House Committee on Internal Security held extremely lengthy oversight hearings into the operation of the Subversive Activities Control Board as well as the loyalty security program. All those hearings concerned the question we are dealing with today. In fact, the committee held hearings comprising four volumes of testimony, so the committee has looked very carefully into the problems involved in this legislation.

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

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the distinguished chairman of the committee pointed out under the present procedures there are different investigations for applicants for Government employment, depending upon whether the job is a sensitive or a nonsensitive one—and rightfully so. If a proposed employee applies for a job to cut grass on the mall or clean up rubbish on the monumental grounds seeks that employment, presumably he does not need a full field investigation. I would take it, on the basis of what the gentleman from Ohio said, even if the person were a member of a so-called subversive organization, that would not stand in the way of his employment, because he would seek a nonsensitive position. But if the person seeks a sensitive position, according to the chairman of the committee there is a full field investigation by the FBI which would presumably disclose all the person's associations. The employer, the Government, would be able to determine whether or not that person's employment should be approved, depending on whether he is the sort of person who has the traits and qualifications for a position in a sensitive spot in the U.S. Government. This is a most thorough investigation.

Why then, is a new procedure like that in the bill needed? Are not the screening procedures now adequate without the SACB?

Mr. EDWARDS of California. I should like to address myself to that for a moment, because in going through the 2,500 pages of testimony from these various heads of the Federal agencies there was a huge lack of enthusiasm for this legislation.

I might disagree here with what the gentleman from Ohio (Mr. ASHBROOK) said. Over and over again the heads of the various civilian agencies of the Federal Government said, "No, our procedures really are very good."

For example, Kimbell Johnson, Director of the Personnel Investigation, Civil Service, said:

> I suggest that the investigative practices of the executive branch are operating smoothly. They are operating economically and efficiently.

The head of the Treasury Department said:

> We feel our security program indeed is in good shape. The Department did not propose any remedial legislation.

The Deputy Assistant Secretary of State for Security said:

> The Department knows of no present weakness or failure in its personnel security problems.

This is repeated over and over again; although, here and there, with a light touch, some improvement is suggested.

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

Mr. EDWARDS of California. I yield to the gentleman from Missouri.

Mr. ICHORD. I want to make sure that the gentleman from California is not taking the testimony of witnesses out of context.

Was that testimony given in reference to H.R. 11120?

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

Mr. ICHORD. Mr. Chairman, I yield the gentleman 2 additional minutes.

Or was that in relation to the overall operation of the loyalty-security program?

I believe the testimony of the witnesses was given in regard to H.R. 11120. Almost without exception every agency which came before the committee and testified that there was need for an up-dated Attorney General's list. And with regard to what was said by Kimbell Johnson of the Civil Service Commission, I want to point out a letter from him which appears on pages 5981–83 of part IV of the committee hearing record. In the last paragraph he states "We are grateful for the opportunity to share with you some of the background concerning the increasing difficulty of taking effective action in cases involving memberships in organizations such as you have named."

Of course, this legislation would delegate to the Subversive Activities Control Board the performance of the function once performed by the Attorney General.

Mr. EDWARDS of California. I believe that a careful reading of the 2,500 pages of testimony from the various organizations would indicate a real lack of enthusiasm on the part of any of these organizations for any updating. They really do consider their procedures today to be adequate to handle this large danger, which the committee has come up with.

Mr. Chairman, I am about to conclude. I really believe that both these proposals, the substitute and the bill, should be voted down.

There is a need for a legitimate program carried on by all agencies and branches of the Government, counseled by the Department of Justice and aided by the FBI, and that is what we have.

I suggest that it would be a great mistake to return to the dark days of guilt by association, witch hunting, and having books on the desk of the head of every agency, where one could look into the book and see that a particular individual 25 or 30 years ago joined an organization which, within the past few days, the SACB has declared questionable. I believe it would be a great mistake.

Mr. ASHBROOK. Mr. Chairman, I have no further requests for time at this time.

Mr. ICHORD. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER of North Carolina. Mr. Chairman, at the appropriate time I will offer H.R. 11120 as an amendment in the nature of a substitute for H.R. 9669.

H.R. 9669 makes no contribution to solving any of the basic problems existing in our security system. It merely tinkers with the security program—and in an unconstitutional way. We need a fundamental reexamination of the program—we need a bill that is constitutional and that strikes a fair balance between personal freedom and our country's security.

My amendment is an effort at such a basic overhaul of the program. It repeals the whole of the Subversive Activities Control Act of 1950 and sets up a new Federal employee security program. Recent hearings before the Internal Security Committee have demonstrated the need for change in our present program. For one thing, the present program is confusing to the agencies and individuals affected. The Supreme Court has described the present program as "confused" and "awkward and ambiguous." It needs to be simplified and clarified. For another, the present program was designed as a response to the cold war period—a simpler period when the source of danger to our internal security was more easily identified. The earlier program was directed at, and phrased in terms of, Russian communism only. Today, security problems not only involve Chinese-oriented communism but "non-

ideological" radical groups such as the Weathermen.

It lays down a new employment standard: That a prospective Government employee will in good faith support the Constitution of the United States—that is, this is the oath required of Federal officers and employees by article VI, clause 3 of the Constitution, and by Statute (5 U.S.C. 3331). The new bill attempts to draw the line in terms of the democratic process; no one is a risk to the internal security of the country as a Federal employee so long as he is willing to play by the rules of the game; but kicking over the checkerboard is not simply another way of playing the game. The test that every employee must meet is whether there is "reasonable doubt that he will support the Constitution." This does not eliminate advocating change, demonstrating or marching for change; but it means accepting the constitutional process of change—that is, change within lawful limits, by amending the Constitution, not by revolution.

The present standard is whether the employment of an individual in Government is "clearly consistent with the interests of national security." It has created such confusion among agencies that it is in effect useless. One indication of this is that not one single employee has been dismissed on loyalty and security grounds during the last 5 years.

I realize the difficulties in presenting a new approach to an internal security program by amendment. And perhaps it is expecting a lot to ask you to pass this under the circumstances. Nevertheless, I decided to offer this amendment at this time because, first, I am convinced it is a vastly better approach than our present security program, even though, it is not perfect. I have an open mind about changes to it. And, second, I think it is high time that we begin a serious dialog in this country and in Congress about our internal security program: whether we need any general program—I think we do—and if so, how it can be designed so that it will strike the proper balance between personal freedom and our country's internal security. To date, the internal security program of our country has been largely the hunting preserve of professional vigilantes of the extreme right and the extreme left. Moderates and liberals in particular have not chosen to dirty their hands with the complex job of making security regulations. True, personal liberty comes first—we always give our enemies a head start in this country, and properly so. But the Government is entitled to security standards, and someone has to take the responsibility of designing them.

I am not a crusader in this field. I did not seek my position on this committee, nor my appointment as chairman of the subcommittee, but have approached it as a job to do. This is the best solution Chairman ICHORD and I have been able to come up with. Perhaps you have a better one.

The issue now before this House is the right of the Federal Government to deny Government employment to those who knowingly and intentionally advocate the overthrow of the Government by force, violence, or other unlawful means, or who knowingly and intentionally join organizations that so advocate. What must be sought here is a balance between the individual's right to reasonable and fair treatment in being considered for employment and the right of all of us, acting through the Government, to maintain the security of the Government itself.

The first consideration to be kept in mind here is that there is no legal right to a Government job. There is a legal and moral right not to be denied a Government job, or to be dismissed from one, for reasons which are arbitrary and invidiously discriminatory. But apart from this limited right and the general right to fairness of procedure in considering an application for employment, there is neither a legal nor a moral right to a governmental job. Instead, access to such a job is a privilege. It follows, therefore, that the Government does not violate anyone's rights by the mere fact that it denies him a Government job. Instead, our inquiry must be whether the grounds for the denial are reasonable and whether a fair procedure was followed in ruling upon the application.

Under H.R. 11120 each applicant for employment would be required to state whether he ever organized or belonged to any organization "which, during the period of your membership or association, you knew was advocating or teaching that the Government should be overthrown or overturned by force, violence, or any unlawful means." If he answered "yes" to this question, he would be required to say whether, during the period of his membership or association, he had "the specific intent to further the aims of such organization—to overthrow or overturn the Government—by force, violence, or any unlawful means." The President, acting through his agents who rule on the application for employment would be empowered to take these answers and the employee's association with such groups into account as one factor in determining his suitability for Government employment.

This provision is sound. It is saved from constitutional invalidity, under the restrictive decisions of the Warren court, by the facts that the membership in question is not innocent, that the existence of such membership is not an automatic bar to employment and that the applicant's right to appeal from a denial of employment is fully protected. The act is designed to affect only knowing and intentional membership in the organization in question.

It might be objected that membership in subversive groups should operate as a bar only to Government employment that is sensitive. But the distinction between sensitive and nonsensitive positions is unrealistic. In today's climate there is no Government position which is not sensitive. Who but the janitor would know better the location of air-conditioning ducts in which to place explosives? In fact, the sensitive-nonsensitive distinction is used as a facade by those who would remove all barriers whatsoever to the employment of subversives in Government. Instead of trying to salvage the unworkable sensitive-nonsensitive distinction, we simply should recognize that it would be criminal folly to employ in any Government position any person who seeks to overthrow the Government or who joined an organization that seeks that overthrow.

We are not talking about squelching free association or free speech; we are not talking about putting penalties on association—no civil penalties.

We are talking about the question of whether, in deciding if someone can be admitted to a sensitive or nonsensitive job, then among other things, you would consider what kind of man he is. Mr. Emerson, who testified against any general security program, said that suitability should be the test, and that a member of the Ku Klux Klan should be disqualified from serving as Director of the Civil Rights Division of the Justice Department. I would say that in the Civil Right Division, an acknowledged member of the Ku Klux Klan who belongs with the specific intent, or even who has belonged and has not given convincing evidence of a change of mind, or who belongs particularly with the specific intent to further the aims of that organization, that person should not work in the Civil Rights Division of the Justice Department under any circumstances.

Does that mean that he should not have any Government job whatsoever? Well, I think here you have to draw the distinction—are you talking about an organization that is hostile to the Civil Rights Division, or an organization that is hostile to the Government itself? The governing principle, it seems to me, is that you should not take somebody into any branch of the Government who, himself, has specific intent to overthrow that branch of the Government, whether it be the Civil Rights Division, or whether it be the big picture—the entire Government as a whole.

If somebody has that specific intent, which is what this act is directed at, specific intent to overthrow the entire Government of the United States, it would seem to me that he is not qualified to hold any Government position, but that we can reasonably say to him that in the interests of the best use of the taxpayers' money, if nothing else, and in the interests of the credibility of the Government service, he will have to seek employment elsewhere.

This would not mean that he would go to jail: this would mean that he would have to seek employment elsewhere. That is why it is important to focus on what type of organization it is we are talking about. We are not talking about excluding somebody from a job because he belongs to the New York Liberal Party or the New York Conservative Party: we are talking about excluding somebody from a job because, as is pointed out in this bill, he belongs, with specific intent, to organizations which have as their purpose the overthrow of the Government of the United States. And if you cannot exclude that man from Government service without descending into sensitive distinctions excepting insofar as the intensity of the check is concerned,

whether it be a national agency check or a full field investigation, if you cannot exclude that ma . from government service, then it seems to me that the basic idea of Government service is reduced to futility.

There should be no irreconcilable conflict between the legitimate demands of national security and the freedom of the individual. It is important for our social health that we reach a fair resolution. Rebecca West has pointed out that:

> The worst offense of Maclean and Burgess in England was "the spreading and degrading cloud of doubt their flight engendered. It followed that suspicion often fell on people who were innocent.

Similarly, in this country the source of much of Joe McCarthy's support was the apparent indifference to national security on the part of those in authority. A fair and effective security program can prevent this sowing of mistrust in our society.

As Rebecca West concludes in "The New Meaning of Treason"—

> If we do not keep before us the necessity for uniting care for security with determination to preserve our liberties, we may lose our cause because we have fought too hard. Our task is equivalent to walking on a tight rope over on abyss, but the continued survival of our species through the ages shows that, if we human beings have a talent, it is for tightrope walking.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ICHORD. Mr. Chairman, I yield the gentleman 5 additional minutes.

The CHAIRMAN. The gentleman from North Carolina is recognized for 5 additional minutes.

Mr. ICHORD. Mr. Chairman, would the gentleman yield to me at this point?

Mr. PREYER of North Carolina. Yes, I shall be glad to yield to the chairman.

Mr. ICHORD. I just want to take this opportunity to compliment the gentleman now standing in the well.

As I indicated previously, the gentleman from North Carolina (Mr. PREYER) has headed a subcommittee which has made a very extensive investigation, oversight investigation, into the internal security program, as well as the administration of the Subversive Activities Control Act of 1950.

I compliment the gentleman and the members of the subcommittee for the thoroughness with which these subjects have been explored.

Indeed, I regard the gentleman from North Carolina (Mr. PREYER) as one of the country's most knowledgeable persons on the subject with which we are concerned.

I would like to state to the gentleman that it is my intention to vote for the substitute which the gentleman offers. However, I am not pushing the amendment. I believe that the time is not ripe.

However, like the gentleman from Missouri (Mr. BOLLING), I think these matters should be discussed by the House.

Our problem with the substitute is that it has no constituency. The extreme left has opposed it very actively here in the Congress, primarily, I suppose, because they think it will be more efficient than the present program. The right has opposed it as it would abolish the Subversive Activities Control Board and repeal the total provisions of the Subversive Activities Control Act of 1950.

So, my position is strictly a pragmatic one.

I think that H.R. 9669 is an improvement. However, I do believe that the gentleman's amendment which he will offer when we read the bill for amendment is a superior approach.

Mr. PREYER of North Carolina. I thank the chairman for his comments and I appreciate the problem with reference to this amendment which has been attacked from both the right and from the left.

I hope that it means we can strike a balance on this question of balancing personal freedom and national security.

I was pointing out that the provisions under H.R. 11120, which I think saves the constitutionality of this bill, is that membership is only one factor in determining the suitability for Government employment and, also, that membership is not innocent. It has to be shown 'hat the membership was knowing and intentional and so forth.

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

Mr. PREYER of North Carolina. I am glad to yield to the gentleman from Illinois.

Mr. YATES. As I understand it the Supreme Court decision in *Keyeshian* v. *Board of Regents*, 385 U.S., said that—

> Mere knowing membership without a specific intent to further the unlawful aims of an organization is not a constitutionally adequate basis for exclusion from (a government) position * * *

If a person knows that he is a member of a particular organization, that in itself is not grounds for excluding him.

Now, how does the requirement in the gentleman's bill change that Supreme Court decision?

Mr. PREYER of North Carolina. Well, the gentleman from Illinois is right, of course, and the provisions of this bill are worded—in fact, the provisions are lifted out of the case of Law Students against Wadman, in which the very provisions we use have been upheld.

I do not believe there is any question about the constitutionality of this bill in that it does not say in any way that membership alone disqualifies. It does allow for the man who is accused to come in and explain his membership. This is really what due process and our Supreme Court decisions have held.

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

Mr. PREYER of North Carolina. I yield to the gentleman from New Hampshire.

Mr. WYMAN. It is very clear, is it not, that when you have this type of hearing that one of the things that the administrative agency has as its responsibility is to ascertain the intent of the individual applicant for employment, and there is all the difference in the world between being a member of an organization, or not knowing its purposes, and intending objectively to accomplish those purposes. And it is required under the decision that my colleague had just referred to that the intention to accomplish those purposes shall be established at a hearing before a person is disqualified from further employment.

Mr. PREYER of North Carolina. The gentleman is right.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. ICHORD. Mr. Chairman, I yield 3 additional minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER of North Carolina. Mr. Chairman, I think what we want to be clear on here is that we are not talking about limiting free association or free speech, and we are not talking about imposing penalties because of association. There are no such penalities in this amendment. We are talking about the question of whether in deciding if somebody should be admitted to a sensitive or nonsensitive job, then among other things to consider is the kind of man he is.

Now, does it mean if we exclude a person from a Government job, from a sensitive position, that he should not have any Government position whatever?

Professor Emerson used the example when he testified before our committee—and he was a man, I would say to the gentleman from California, (Mr. EDWARDS) who testified against all of the bills, and also Mr. Spicer of the American Civil Liberties Union who testified—but Professor Emerson gave the example that a member of the Ku Klux Klan should not be allowed to be the director of a civil rights division of the Department of Justice. He said that the test of suitability was sufficient.

I think we would all agree with Professor Emerson on his specific example, but I would look a little further than Professor Emerson, I would say that any member of the Ku Klux Klan who belonged to that organization with the specific intent to further the aims of that organization ought not to be permitted to work in the Civil Rights Division under any circumstances.

Does that therefore mean that he should not be given any Government job?

I think we draw the distinction here, are we talking about an organization that is just hostile to the Civil Rights Division, or an organization that is hostile to the Government itself?

The difference in principle, it seems to me, ought to be that we should not take somebody into any branch of the Government who himself has the specific intent to overthrow that branch of the Government, whether it be the Civil Rights Division or whether it be the big picture of the entire Government as a whole.

If somebody has that specific intent, which is what this act is directed at, the specific intent to overthrow the entire Government of the United States, it would seem to me that he is not qualified to hold any Government position, and that would include nonsensitive positions.

Of course, we can reasonably say to them, in the interest and the best use of the taxpayers' money, if nothing else, and in the interest of the credibility of the Government service, "You will have

to seek employment elsewhere." It does not mean he would go to jail; it just means he seeks employment elsewhere.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. ICHORD. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. Chairman, will the gentleman yield?

Mr. PREYER of North Carolina. I yield to the gentleman.

Mr. ICHORD. It appears to me that the gentleman from Illinois appears to be proceeding from the premise that employment is a matter of right.

Is it not true, I would ask the gentleman from North Carolina, that for all practical intents and purposes, we do not have a loyalty security program in regard to nonsensitive positions?

Mr. PREYER of North Carolina. The gentleman is correct. This bill would bring nonsensitive positions into our security program.

Because of the holding in the case of Cole against Young we, in effect, have no security program for nonsensitive positions at this time.

Mr. ICHORD. Is it not also true that the Department of Justice has advised personnel security officers not to proceed on the ground of loyalty but to proceed on the ground of suitability and efficiency?

Mr. PREYER of North Carolina. That is part of the confusion in the present program. No one has been dismissed from Government employment in the last 5 years on the grounds of loyalty-security. But that does not mean that everybody is loyal or that there are no security risks.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ICHORD. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. PREYER of North Carolina. It means they are dismissed on some other ground. This is a tortuous and artificial way to get at it. They are dismissed on the ground of suitability because that is less troublesome, but it does not avoid legal problems. It raises the point of what if there is no alternative ground for dismissal of someone who is a security risk, for example. Then you run into problems.

Mr. ICHORD. Is it true, I would ask the gentleman from North Carolina, that many, if not all of the departments, have not devised rules and procedures for dismissal of nonsensitive position employees under a loyalty provision?

Mr. PREYER of North Carolina. Yes; the gentleman is correct.

I think many of them have misinterpreted perhaps and have not devised their own loyalty-security programs. I think probably they could and they should. I think my amendment would make it perfectly clear and make it legally and perfectly acceptable for them to proceed with that kind of program.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, I thank the distinguished minority Member for yielding this time to me.

Mr. Chairman, I appreciate the concern that the committee has for trying to help the executive branch to develop suitable employment standards for its employees. Everybody who has ever hired anybody knows how difficult it is to find good men and women.

Just this morning, for instance, in reading the Washington Post, I find this very committee has had some trouble with some of its employees violating Federal and State law. I refer specifically to the column by Mr. Jack Anderson. I have reason to believe the facts are accurate.

Two of the investigators of the House Internal Security Committee, assigned as I understand it to the distinguished ranking minority Member, went into Chicago and apparently sought to bug a room where a convention of some far left organization was taking place.

Of course, that violates State and Federal law.

I must say in defense of the distinguished ranking minority Member whom Mr. Anderson called personable—and I would agree, that he did not condone this behavior.

He said that if it occurred, it certainly occurred without his consent and that he would have disapproved of it, and I am glad to hear it.

But more than the question of approval or disapproval, these employees, though they might have been hired by the gentleman from Ohio, they are still employees of the House. If the facts are true, they violated the Omnibus Crime Control Act and very clearly violated the statutes of Illinois which specifically prohibit this kind of electronics eavesdropping. I would like to inquire of the chairman and the ranking minority member what we are going to do about screening the employees of his committee to see to it that they do not violate State and Federal laws; whether any specific disciplinary action will be taken by the committee if the facts prove true; whether an investigation is started, or what? If either of them would care to answer, I would be happy to yield to them.

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

Mr. MIKVA. I yield to the gentleman from Ohio

Mr. ASHBROOK. I think the key to what the gentleman has said is the question whether it is true. There is a lot of difference between what is charged often and what is actually the case. I am looking into it. I did not know anything about it until I was told by one of Mr. Anderson's associates over the weekend. I have not been able to talk to the other party. I am attempting to look into it, and if it is the case, I would be as exercised about it as the gentleman is.

Mr. MIKVA. Let me say to the gentleman that these events occurred in the city of Chicago, and I will be happy to make available to him all the facts I have on it since it involved some people at the hotel with whom I have an acquaintance.

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

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

Mr. ICHORD. I am not familiar with the facts in the story written by Jack Anderson. Of course, I am sure the gentleman from Illinois does not believe every story he reads in the newspapers. I would point out that it is my intention to look into the facts surrounding this matter. I would also point out that the story of Jack Anderson was not complete in that it described a young workers liberation league as a far-leftist group. It is very far left. In fact, I would say to the gentleman from Illinois, as I am sure the gentleman well knows, the Young Workers Liberation League is the youth arm of the Communist Party, U.S.A. I would state specifically to the gentleman that no employee of the House Committee on Internal Security is authorized to engage in wiretapping.

But let us get the facts first. I am sure the gentleman would be the last to believe everything he reads in the newspapers.

Mr. MIKVA. Let me assure the gentleman that I appreciate his enlightening me on the location of this particular group in the political spectrum. I did not know that in the past, but I am willing to accept his word for it.

Mr. ICHORD. The gentleman may.

Mr. MIKVA. I am curious to know if the chairman would suggest that the degree of malfeasance of these employees would be measured by how far to the left the organization stands. Let us assume that it was the Communist Party itself. Would that justify electronics eavesdropping?

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

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

Mr. ASHBROOK. Absolutely not. If it is wrong, it is wrong whatever the group.

Mr. MIKVA. I might also point out that I did discuss this matter with the chairman. It happens that the owner of the hotel where these events took place is a friend of mine. He is not a member of the group that was under surveillance; he happens to be engaged in the American activity of making money owning a hotel.

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

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

Mr. ICHORD. The gentleman is correct in saying that he discussed the matter briefly with me. I am sure the gentleman from Illinois was not the one who leaked the story to Jack Anderson. Is that not true?

Mr. MIKVA. Do not be too sure. Let me say in conclusion I think there may be something endemic about this kind of problem whenever we get into groups whose sole function is that of looking into somebody else's thoughts, philosophies and intents. I believe very strongly that the Government and the Congress have to measure the suitability of their employees, and I believe that neither Congress nor the Government ought to be powerless to measure that suitability. But something seems to happen when a group, whether it is the House Internal

Security Committee or the Subversive Activities Control Board, gets involved in measuring what is going on in a person's mind, they go into such practices as wiretapping or electronics eavesdropping.

I would much prefer to have the gentlemen who now make up the Subversive Activities Control Board do something else for a living, and perhaps the activities now engaged in by the House Internal Security Committee could properly be transferred to the House Judiciary Committee, as they are in the other body, and perhaps we would have less occasion to find out who is bugging whom. I thank the gentleman very much.

Mr. ICHORD. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I find myself constrained to come forward and assert that I am neither, I think, of the extreme right, nor of the extreme left, and yet I do oppose the amendment described by the distinguished gentleman from North Carolina (Mr. PREYER) for whom I have the highest respect. But because I do oppose it, and because I do not want to accept the designation that the distinguished gentleman from Missouri has placed on those who might oppose this, I feel it necessary to explain why I oppose it. Let me point out first that Executive Order 10450 does give departments and agencies the authority to screen those they employ. I agree with that purpose. I think agencies should have the right to screen their employees for security purposes.

The thing that troubles me, however, is the writing of a specific act which provides for uniform screening of persons regardless of the sensitivity of the job. There is a tremendous invasion of privacy therein involved.

Of course, the gentleman from North Carolina has properly said that employment is not a matter of right, but fair and evenhanded treatment in public employment is a matter of right, and I think the gentleman has quite sincerely attempted to protect that fair and equal treatment.

But the difficulty is, I think, the gentleman from North Carolina has made of the function of governmental employment a judicial process which does not really adequately protect first amendment rights. I would think that a person seeking Government employment would rather simply be turned down as not a suitable employee for the particular job and not a suitable employee, because the agency head may feel he is not suitable for several different reasons—perhaps even including the agency head's consideration that the person might be a security risk—I would think the person would rather be turned down rather than have a Federal case made out of his rejection, particularly when the Federal case cannot, in fact, be adequately tried so as to do the applicant justice.

The applicant for Federal employment is asked first whether he ever belonged to an organization that he knew to be in favor of overthrowing the Government by force. If his answer is yes, he is asked whether he had the specific intention to further the aims of the organization. Let us say the applicant answers the first question yes, because he feels he has to answer it that way, although he might not have really known specifically what the full nature and purposes of the organization were. Perhaps he contributed a dollar to the aid of Loyalist Spain in the 1930's, and he does not know exactly when he found out that the Loyalists pretty much fell into the lap of the Soviet Union, and he does not know exactly how he ought to classify that contribution and his resulting membership in an organization. But he answers yes. He wants to be candid and fair. Of course, in the first place he has to make a very difficult judgment in answering the first question. It is not a black and white question, but in answering the second question no, he is quite sure he had no specific intent to further the aims of such organization. The agency does not employ him. The agency says, well, if you knew an organization to which you belonged was subversive, we think under the circumstances there is some evidence that you would be a security risk.

Now, what kind of review does he have? His review lies under th judicial review provisions on line 14 of page 16:

> The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive.

It does not say anywhere that the Security Board would have to find that he had a specific intent to overthrow the Government by force or violence, and if it does require that, it does not say that the Board might not answer that question in the affirmative on the basis of evidence that the applicant merely belonged to the organization. So the ultimate result is that under the assumptions of the judicial review the man is, in fact, convicted of being unsuitable as a security risk because it is determined that there is "a reasonable doubt that such person will in good faith support the Constitution of the United States."

For my part, I would think that one would be in a better position simply to be refused employment in the first place, rather than to be put through a trial in which the ordinary standard of proof on the basis of substantial evidence on the record as a whole supports agency action.

Any Members who have ever tried an administrative agency case know that it is virtually impossible to overthrow the agency determination when the agency says. "We had some reasonable basis on the record as a whole" and the facts to be proved are as subjective as those here involved.

In this instance the agency would say, "We knew, and you admitted, that you belonged to an organization that has as a part of its purpose the overthrow of the Government by force and violence."

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

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

Mr. ICHORD. I agree with the gentleman up to a certain point, but I do not know exactly where he takes off in disagreement with me.

As the gentleman has indicated, we are trying to engage in a very delicate balancing of the rights of the individual against the security interests of the Nation.

Let me ask this question: Does the gentleman believe that a loyalty-security program can be efficiently and effectively operated?

Mr. ECKHARDT. I believe it can, by the agency involved.

I would leave in effect Executive Order 10450, substantially as it is, and I would let the agency weigh these matters in its own discretion. I believe in the long run this will have a less deleterious effect on free speech than any other approach.

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

Mr. ICHORD. Mr. Chairman, I yield the gentleman 1 additional minute.

Would the gentleman from Texas be in favor of the present approach where, because of difficulties—mainly Supreme Court decisions regarding the matter of loyalty—the agency is advised by the Department of Justice to look around to see if it can find other grounds for the dismissal, rather than to dismiss on loyalty grounds? This seems to me to be quite dangerous, I would say to the gentleman from Texas.

Mr. ECKHARDT. I must say to the gentleman if he understands me to so believe he is under a misapprehension.

The point I am making is that in judging an employee there are many factors which determine whether or not the agency will select him. There may be some lurking question in the mind of the agency head that the person would not be as devoted to the program of the governmental agency and as loyal to its general purpose as someone else. But I would hate to see a situation in which that man is called in for a quiz as to whether he supports the Constitution, and to what extent he does, and why he does not if he does not, and so forth. This all to me is extremely offensive under the first amendment rights.

Mr. ICHORD. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, in the 2 minutes I have I will say that I have listened very carefully to the debate here and that it has made two things quite evident: first, there has been no firing of anybody because of loyalty reasons in the past 7 years; second, there has been no evidence presented here today that would justify this attempt to overrule the Supreme Court, ignore the Constitution, and grant such broad powers to the executive.

H.R. 9669, the principal measure, would revive the guilt-by-association "Attorney General's List" which a long line of cases has held to be in violation of the first and 14th amendments.

It is true that nobody has a constitutional right to a job, but it is also true that nobody has a right to be deprived of a job for unconstitutional reasons or through unconstitutional means.

I think it is quite curious to suggest that the listing by an applicant or an employee of his membership in a listed organization would not disqualify him but merely touch off an investigation to see whether he is aware of and in agreement with the goals of an organization.

It is quite evident that such a person would be discriminated against in hiring and in being the first to be fired.

The other very serious constitutional infirmity of the bill is that it delegates substantial legislative powers to the executive in violation of the constitutional provisions with which we are so familiar.

Having gone through the lesson of the Gulf of Tonkin and many other things, I should think we would be very careful not to grant to the President such broad power to enforce the law, not to mention the power to make the law. I believe that H.R. 9669 does both.

H.R. 11420 the substitute bill, would violate, in its scope of inquiry, the decisions you mentioned, Mr. PREYER, in the Wadmond and Stolar cases, in that it gives authority to go into the nature of a political organization and political association beyond what is permitted under those cases.

Both bills are ill-advised and unconstitutional, and I urge their resounding defeat.

Mr. TEAGUE of Texas. Mr. Chairman, I speak for H.R. 9669 and against the proposed amendment—or "any amendment that may be offered."

H.R. 9669 is designed to strengthen and improve the Federal personnel security program. It has been the subject of hearings. It has been reported by the Committee on Internal Security. It is endorsed by the Department of Justice, the administration, the American Legion, the Veterans of Foreign Wars, and by the SACB and others whose views merit our positive consideration.

This bill has the value of retaining the present time-tested and court-tested security program with as few changes as possible—and with only such changes as will clearly better guarantee due process to all parties concerned and improve the chances of the program's continuing to survive any constitutional challenges.

We are dealing here with a complicated, sensitive subject—the balance between individual rights and Government security, which is the security of the people as a whole, their group rights. Any changes made in such a program must be carefully studied and analyzed, both from the viewpoint of constitutionality and of practicality.

No proposed amendment meets these criteria. None has won the approval, after hearings, of any appropriate, qualified committee. Lacking this, I do not see how, in a relatively few minutes of debate, and lacking a report on a proposal, we can thoroughly explore and resolve such important questions.

I recommend passage of the bill as reported and the rejection of all proposed amendments.

Mr. WYMAN. Mr. Chairman, I urge all Members of the House to support H.R. 9669.

What we are asked to vote for, through this bill, is the continuation of a sound, effective, and constitutional Government personnel security program. The program in effect today was initiated, basically, by an Executive order of President Truman in 1947. With some changes it has been continued in effect by every President since that time.

The compilation of an Attorney General's list has been, and is, a key element in this program. This list was actually initiated prior to the Truman loyalty order by an Executive order of President Franklin D. Roosevelt issued on February 5, 1943. Thus, it has been in effect as a guide and yardstick in Government personnel security matters for almost 30 years.

Why do we need an Attorney General's list? Because the head of each Government agency, by Presidential directive, is responsible for determining that the employment of every person in his agency does not create or continue a meaningful risk to the national security.

How can he do this? It is clearly impractical to conduct, or have the FBI make, a full-scale investigation of the lifetime activities and associations of every individual applicant for Government employment. The cost would be prohibitive and it would be grossly inefficient because of the intolerable delay in hiring needed personnel.

But suppose it could be done and agency and security officers had before them complete life histories of all applicants. How would they interpret them? What would it mean securitywise, for example, if one person had been associated with the Chopin Cultural Center in Chicago, another with the Guardian Club in San Antonio, a third with the Idaho Pension Union and still another with the Citizens Protective League in New York City?

Were or are these groups subversive? Is or was it their intent to destroy our constitutional form of government? If the latter, were they associated ideologically and by action with a hostile foreign power or international movement, or were they purely domestic in nature? If they had foreign ties, were they Fascist, Nazi, Communist, or of some other type completely alien to our form of government? Answers to these questions are vital to a sound security program, as are the individual applicant's role and intent as a member.

Even experts on subversion, sitting in Washington, could not be expected to know the name and nature of every group, large or small, old or new, in every area and city of the country, which had adopted an ideology and program of action so completely alien to our form of government that knowing affiliation with the group raised a valid question about a person's fitness for Government employment.

Yet, unless someone in Government knew the facts, there could not be a worthwhile security program. The groups mentioned a moment ago, though they have innocent sounding names, have been found to be subversive by various Attorneys General and are presently on the Attorney General's list.

That is why President Truman, as F. D. R. had done before him, directed the Attorney General to prepare a list of such organizations for the information of Federal security officials and why directives to that effect have been continued by every President since that time. The Attorney General, with the services of the FBI at his disposal, was the one Government official in a position to prepare such a list.

The fact that an applicant for Government employment has been affiliated with a group on the list has never been an automatic bar to his employment. But it is a factor to be weighed in determining continuing fitness on security grounds—a warning signal calling for investigation to determine whether the association was knowing and intending or unwitting, when it existed, for how long, and so forth, with particular reference to classified employment. Consideration of these and related factors has resulted in some persons associated with groups on the list being hired and some being denied Government positions.

The House Committee on Internal Security has recently held extended hearings on the Federal personnel loyalty/security program and the administration of the Subversive Activities Control Act. The question of the Attorney General's list was a major consideration in these hearings, in which security officials and counsel of some two dozen Government departments and agencies testified. Let me quote the summary of their testimony about the Attorney General's list as it appears in the committee report on the bill we are now considering, H.R. 9669:

> With few exceptions, all of the departments and agencies of whom inquiry had been made have supported the concept of the Attorney General's list, and regard it as helpful in the execution of the loyalty-security programs maintained by them . . .
>
> Several agencies have made clear that they have neither the expertise nor the facilities for independently proving the character of organizations, and have urged that the determination of such questions be centralized.

The committee itself, after reviewing the testimony and evidence stated:

> We are in agreement that the maintenance of a current and reasonably comprehensive Attorney General's list of subversive organization is indispensable to the efficient operation of the Federal Civilian Employee Loyalty and Security Program.

The hearings also pinpointed a serious problem known for years to persons informed on this matter. This is the fact that the Attorney General's list has not been kept up to date. No group has been added to it since 1955, a period of almost 17 years. Of the 283 groups now on the list, at most 20 are functioning today. The personnel security program has lost some of its effectiveness because of this. Again, let me quote the committee report of testimony on this subject:

> Virtually, all [departments] deplored the fact that there has been a failure in maintaining current designations, and for that reason found it [the list] unsatisfactory.

The committee itself stated:

> The failure to maintain a current Attorney General's list has been but one of several weaknesses in the maintenance of the loyalty and security program.

As the first step in correcting this situation and revitalizing the Attorney General's list, President Nixon issued Executive Order 11605 last July 2. Under previous orders, the Attorney General had sole authority in compiling the list.

He was, in effect, accuser, prosecutor, judge, and jury.

Let me point out that the Executive orders of both Presidents Truman and Eisenhower authorizing the Attorney General to compile the list have been challenged in the courts on more than half a dozen occasions. They survived every one of these challenges.

The trend of recent court decisions in the loyalty-security area and relating to due process, however, convinced the President that a system providing greater due process and protection against unjustified listing would be advisable. The most significant change in the program effected by his order of last July, therefore, was that the Attorney General was denied the absolute authority he previously had in compiling the list. The new order provides that he may add a group to the list only after he has convinced an independent, quasi-judicial agency, the SACB, that the group fits the definition of one of the six types of organizations enumerated in the order; that is, that it is totalitarian, Fascist, Communist, subversive, advocates force and violence to deny others their rights under the Constitution, or that it seeks to overthrow the Government by unlawful means.

This order was studied and discussed at length in the White House and Office of Legal Counsel of the Department of Justice before it was issued. It was agreed, without question, that the President had authority to give the SACB new duties in the same area, and of the same type, assigned to it by the Congress. Many similar Executive orders have been issued in the past.

There was also agreement, however, that the President did not have the authority to confer on the Board for these hearings the subpena and contempt power the Congress had conferred on it for proceedings under the Internal Security Act.

The administration, therefore, sent to the Congress a bill which would give it such authority in proceedings related to the Attorney General's list. The purpose of the bill and of the authority it would confer on the Board is to insure fair and full disclosure to both sides in Board hearings, and also to enable the Board to cope with deliberate disruption of its proceedings. The only other provision in the bill as it was sent to Congress was that it would change the name of the SACB to "Federal Internal Security Board."

As the report on the bill indicates, an amendment proposed by the distinguished chairman of the committee was adopted before the bill was reported. The committee agreed that this amendment would strengthen and improve the Government security program and remove any doubts about the authority of the President to act as he did in issuing the Executive order.

I share the views of the committee that this is an important and much-needed piece of legislation, and I trust that the House will act favorably on it.

Mr. BADILLO. Mr. Chairman, I rise to express my very grave concern over both the measure designed to expand the powers of the Subversive Activities Control Board (H.R. 9669) and the intention to substitute for it legislation effecting a rather fundamental and comprehensive change in the Federal employee security program. Both of these ill-conceived measures raise very serious constitutional issues and potentially infringe upon those basic rights of citizens which we have all sworn to uphold and defend. Neither one of these can be justified on any basis and they both deserve prompt and decisive defeat.

The civil liberties of prospective Federal civil servants are seriously endangered by H.R. 9669. This bill attempts to legitimize the President's Executive Order 11605 of last year by delineating new duties for the SACB. It simply perpetuates a needless bureaucracy which is nothing more than a vestige of a bygone era and period of "subversive" witchhunts. Not only does the SACB have no substantive or justifiable duties to perform but there is no evidence that any Federal agency needs this body to insure that its employees are acting in a manner detrimental to our system of government. Testimony before the committee earlier this year revealed that no Federal department or agency has had to remove a single employee on the basis of loyalty or security for at least 2 years.

Further, as our able colleague from Massachusetts (Mr. DRINAN) has so aptly observed in his scholarly and perceptive dissenting views, H.R. 9669 represents a "total abdication to the President of legislative authority over the jurisdiction of the SACB" as the President is established as the sole and exclusive legislator regarding SACB activities. This legislation grants to the President virtually unlimited and clearly unconstitutional powers to delegate to the SACB investigations of organizations which some may consider as subversive. Considering the fact that Executive Order 11605 would probably be declared unconstitutional if enforced, I shudder to think what the present or some other misguided President in the future may classify as subversive. In addition, there is absolutely no justification as to why the Congress should abandon or otherwise relinquish its constitutional responsibilities for defining the jurisdiction and responsibility of any Federal department, agency, commission, board, or other official or semiofficial body, especially during this period when we are attempting to exert and regain our authority and powers of influence in foreign and military affairs.

Our colleague from North Carolina (Mr. PREYER) notified us last week that he intends to offer the language of H.R. 11120—replacing the SACB with a Federal Employee Security and Appeals Commission—as a substitute for H.R. 9669. Not only do the Department of Justice and the U.S. Civil Service Commission oppose this measure but this legislation has never been reported out of committee, even though there have been about 2 years of hearings into the whole issue of loyalty-security programs in the Federal Government. H.R. 11120 as such has neither been considered by the Internal Security Committee nor any other congressional committee and, in view of such a major restructuring of governmental policy and practices, I believe it would not only be dangerous but irresponsible for us to act on it without the benefit of full congressional hearings and an appropriate report. Additionally, there are no meaningful guarantees that the current questions of unconstitutionality will be avoided, that the rights of present and prospective Federal employees will be fully protected and that there will be no "guilt by association" provisions.

Mr. Chairman, in striving to afford appropriate protections against the threat of internal subversion and disloyalty we must not revert to the repressive attitudes and approaches of previous times and attempt to establish such protection by abridging the rights of citizens. I am fearful that this is what these two measures would primarily accomplish. In the process they will simply exacerbate current domestic tensions and will seriously curb constitutional liberties. We cannot permit this to happen and I again urge that we soundly defeat this misdirected legislation.

Mr. ANNUNZIO. Mr. Chairman, I am opposed to both of these bills—H.R. 9669 and H.R. 11120—that come to us from the Internal Security Committee and have essentially the same purpose, which is to provide a statutory basis upon which the Subversive Activities Control Board may carry out the function which President Nixon has given it by Executive Order 11605 of July 2, 1971—the function of updating the Attorney General's list of subversive organizations to be used as a means of investigating the loyalty of applicants for Federal employment. H.R. 9669 changes the name of the Board to the Federal Internal Security Board; H.R. 11120 changes it to the Federal Employee Security and Appeals Commission.

The output of the SACB hardly justifies its continuation. As a result of more than 20 years of effort, the Board, as of June 30, 1971, had published final orders determining one organization—the Communist Party—to be a Communist-action organization and seven organizations to be Communist fronts. The Board's record of achievement is pathetic.

Last year, the SACB Chairman indicated, their entire workload consisted of listening to three witnesses. Thus, the SACB's political appointees have done little more than draw their large salaries and drain the citizens' pocketbooks of hard-earned tax dollars which could be put to better use elsewhere.

Mr. Speaker, I protest the utter waste of money which would be appropriated for the Federal Internal Security Board or the Federal Employee Security and Appeals Commission. In 1970 Congress gave the SACB $401,400 for fiscal 1971; in 1971 Congress gave it $450,000 for fiscal 1972. These sums add up to close to a million dollars over a 2-year period. Are we going to throw away hundreds of thousands of dollars that could be directed to meeting the crying needs of our cities for better schools, expansion of mass transit, for the fight against environmental pollution and crime in the streets?

Mr. Speaker, I urge Members to vote down these bills, to abolish the SACB,

and to spend the money we would save to meet the real needs of the country.

Mr. CELLER. Mr. Chairman, I oppose H.R. 9669, which delegates to the President totally unlimited authority to proscribe political associations of Federal employees and applicants for such employment. The only standard—that an organization be "relevant" to an employee's suitability on loyalty and security grounds—is the equivalent of no standard at all.

Three important constitutional principles are violated. First, the Constitution vests all legislative authority in the Congress. That authority cannot be delegated to the President who can only execute laws which the Congress has enacted. Second, in an area which touches the first amendment, very clear standards must be written into the law to insure that activities protected by the first amendment are not included within the legislative prohibition and to prevent the arbitrary exercise of authority by those entrusted with the execution of the laws. Third, the first amendment prohibits exclusion of individuals from Government employment on the basis of nothing more than membership in organizations, even those which advocate the violent overthrow of the Government, an occurrence in no way prevented by this bill.

The law is well established that Congress may not delegate legislative authority to the President. As long ago as 1825, the Supreme Court regarded this principle as "universally recognized." Said the Court:

> That Congress cannot delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the government ordained by the Constitution. *Field* v. *Clark*, 143 U.S. 649 (1825).

That is precisely what we have here. As was so well put in the dissenting views, by passing this bill:

> The Congress would simply vest in the President nothing more or less than the power to write the loyalty-security laws of the United States.

The Supreme Court has also spoken on laws affecting the first amendment, holding that they cannot be vague or overbroad. As the court stated in a case striking down prohibitions against employment of members of "Communist-Action" organizations in defense facilities.

> It has become axiomatic that "precision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *NAACP* v. *Button*, 371 U.S. 415, 438 (1963); see *Aptheker* v. *Secretary of State*, 378 U.S. 500, 512–13; *Shelton* v. *Tucker*, 364 U.S. 479, 488 (1960). *United States* v. *Robel*, 389 U.S. 258, 265 (1967).

It is no answer to suggest, as do the proponents of this legislation, that problems of vagueness and overbreadth may be cured by administrative care in drawing regulations. The limitations must be placed in the first instance on the one who is to do the implementing. Administrative discretion can be a dangerous tool, especially in the delicate area governed by the first amendment. The Supreme Court has described well this vice of unfettered executive branch discretion. Where such discretion exists, said the Court:

> No one can tell . . . what meaning is intended . . . [They] will be given meaning according to the predilections of the [administrator] . . . [to some they] will be synonymous with "radical"; to other [they] will be synonymous with "communist." [They] can be expanded to include those who depart from the orthodox party line—to those whose words and actions, though completely loyal, do not conform to the orthodox view on foreign or domestic policy. These flexible standards, which vary with the mood or political philosophy of the [administrator] are weapons which can be made as sharp or blunt as the occasion requires. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 314 U.S. 123, 174–76 (1951) (concurring opinion).

Familiarity with actions of this administration in the loyalty-security area provides a perfect illustration of why we must enunciate carefully the standards to be followed. Executive Order No. 11605, the administration's current attempt to define those kinds of organizations which ought to be blacklisted, is a textbook example of constitutionally prohibited vagueness and overbreadth.

The Executive order authorizes the Attorney General to petition the SACB to hold hearings to determine whether any organization is "totalitarian, Fascist, Communist, subversive or whether it has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means."

The range of impermissible conduct encompassed in the definitions of the phrases quoted above boggles the mind. Not only is advocacy of force or violence included, but advocacy of "autocratic" government, of "rigid one-party dictatorships," or of a system in which "control is centered in a single individual, group or political party, allowing no effective representation to opposing individuals, groups or parties and providing no practical opportunity for dissent." Advocacy of support for some of this Nation's allies, as well as our enemies, could come within these standards.

Although the order specifies that the forbidden objectives must be pursued by "unlawful means," those means are not defined. Presumably, they can, and may well, include such crimes as parading or demonstrating without a permit, organizing draft resistance, burning a draft card, illegal strikes, violating injunctions, disorderly conduct, symbolic but harmless acts of civil disobedience, or even jaywalking.

The Executive order is so vague and overbroad that the committee report on H.R. 9669 spends almost three full pages on its drawbacks and deficiencies. Moreover, one Federal judge has already indicated that it:

> Raises constitutional problems by reason of [its] vagueness and overbreadth and the resulting effect on the rights of many government workers, present or future. *American Servicemen's Fund* v. *Mitchell*, C.A. No. 1776–71 (January 10, 1972).

I have described the Executive order at some length to demonstrate to you why it is that we cannot rely on the executive branch to narrow its use of the unfettered power which this bill would give it. Unless its vagueness, overbreadth and lack of standards are cured, the Congress has no business passing it.

The Supreme Court has set very specific standards which Government must meet when trying to probe the associations of applicants and employees. Stated briefly, the first amendment protects membership in all organizations, even those with illegal objectives, unless the individual knows of the purpose and shares a specific intent to promote the illegal purpose. *Whitehill* v. *Elkins*, 389 U.S. 54 (1967), *Keyishan* v. *Board of Regents*, 385 U.S. 589 (1967); *Elfbrandt* v. *Russell*, 384 U.S. 11 (1966); *Wieman* v. *Updegraff*, 344 U.S. 183 (1952). The Supreme Court, in an opinion within the last six weeks, has restated its adherence to these principles. *Cole* v. *Richardson*, 40 U.S.L.W. 4381 (April 18, 1972):

> We have made clear that neither federal nor state governments may condition employment on taking oaths which impinge rights guaranteed by the First and Fourteenth Amendments respectively, as for example those relating to political beliefs. *Law Students Research Council* v. *Wadmond*, 401 U.S. 154 (1971); *Baird* v. *State Bar of Arizona*, 401, U.S. 1 (1971); *Connell* v. *Higgenbotham*, 403 U.S. 207, 209 (1971); Marshall, J., concurring). Nor may employment be conditioned on an oath that one has not engaged, or will not engage, in protected speech activities such as the following: criticizing institutions of government; discussing political doctrine that approves the overthrow of certain forms of government; and supporting candidates for political office. *Keyishian* v. *Board of Regents*, 385 U.S. 589 (1967); *Baggett v. Bullitt*, 377 U.S. 360 (1964); *Cramp* v. *Board of Public Instruction*, 368 U.S. 278) (1961). Employment may not be conditioned on an oath denying past, or abjuring future, associational activities within constitutional protection; such protected activities include membership in organizations having illegal purposes unless one knows of the purpose and shares a specific intent to promote the illegal purpose. *Whitehill* v. *Elkins*, 389 U.S. 54 (1967); *Keyishian* v. *Board of Regents, supra; Elfbrandt* v. *Russell*, 384 U.S. 11 (1966); *Wieman* v. *Updegraff*, 344 U.S. 183 (1952). Thus last Term in *Wadmond* the Court sustained inquiry into a bar applicant's associational activities only because it was narrowly confined to organizations which the individual had known to have the purpose of violent overthrow of the government and whose purpose the individual shared. And, finally, an oath may not be so vague that "men of common intelligence must necessarily guess at its meaning and differ as to its application, [because such an oath] violates the first essential of due process of law." *Cramp* v. *Board of Public Instruction*, 368 U.S., at 287. Id at 4383.

This bill does not by its terms violate these standards because it itself states no standards at all. But it leaves the executive branch totally free to violate those standards in a way which, as I described earlier, the individual will most often be powerless to prevent. That is why if we are to enact any legislation in this area, it must contain clear prohibitions and mechanisms for the employee to insure that his or her constitutional rights are being observed.

H.R. 11120

This brings me to H.R. 11120 which Congressman PREYER has offered as a substitute to H.R. 9669. I believe this bill is also unconstitutional. I am joined in that view by constitutional scholars who testified before the House Internal Security Committee, as well as by the administration which expressed doubts about its constitutionality and concluded that it would decrease the effectiveness of the current Federal employee security program.

H.R. 11120 appears to create the standards which H.R. 9669 lacks. It uses many more words, but upon examination it turns out to give the President just about as free a hand as H.R. 9669. The heart of the bill appears in section 6 which authorizes the President in determining whether employees will in good faith support the Constitution:

> Any fact relevant and material to that determination, including, but not limited to, the holding of present or past membership in, or association with, organizations within the United States of the following types:

The balance of section 6 attempts to reproduce associational inquiries which the Supreme Court has allowed for attorneys. *Law Students Civil Rights Research Council* v. *Wadmond*, 401 U.S. 154 (1971); *Baird* v. *State Bar of Arizona*, 401 U.S. 1 (1971); *In re Stolar*, 401 U.S. 23 (1971).

The bill thus, on the one hand, gives the appearance of an attempt to comply with these limitations outlined in Supreme Court decisions, while actually containing a vast loophole. The proponents of the bill have attempted to seize on the Court's language in Wadmond to the effect that the Government could test the applicant's good faith by certain limited associational inquiries. But that language does not authorize a departure from the Supreme Court standards as set forth earlier in the Cole case, requiring "knowing membership with a specific intent to further illegal objectives." The "includes, but not limited to" language in H.R. 11120, as well as its reference to simple "membership or association" expressly frees the President from the very limits which the proponents of the bill claim have been carefully written into it.

Moreover, I see no constitutional basis for a loyalty program as broad as this one. The Supreme Court has never sanctioned a comprehensive loyalty program for all Government employees without regard to the sensitivity of their positions. In the 1971 cases concerning lawyers, the Court relied heavily on the special responsibilities of that profession. Indeed, in United States against Robel, the Court struck down a law prohibiting employment of Communists in a defense plant, finding it a fatal flaw that it made "irrelevant that an individual subject to the penalties—may occupy a nonsensitive position." 389 U.S. at 266. Lower Federal courts have begun to issue such rulings. In *Soltar* v. *Postmaster-General*, 277 F. Supp. 579 (N.D.Cal. 1967), the Government's interest in requiring an applicant for a Post Office job to reveal his political associations was found insufficient to override the first amendment rights. *Accord*, *Stewart* v. *Washington*, 301 F. Supp. 610 (D.D.C.). I believe these courts correct. If the Government's interest in Robel, that of safeguarding the defense of the United States, which the Court recognized as very substantial, was not enough to justify a sweeping loyalty program there, then certainly, when you consider the massive assault on the first amendment, there is insufficient interest to establish such a program for every Federal employee without regard to the kind of job he or she holds.

H.R. 11120 is a massive fraud. It purports to protect constitutional rights while robbing them in a wholesale fashion. It must be rejected.

CONCLUSION

In conclusion, then, I ask you to keep the following thought in mind.

The first amendment to our Constitution guarantees to all our people freedom of speech and freedom of association. These are not simply abstract phrases to be taught to students as they learn about our system of Government in school. The strength of a democracy, as the first amendment recognizes, depends, in part, on the freedom which people feel to discuss, debate, criticize, and oppose the policies and actions of their Government. Both of these bills would shut off that debate, by frightening individuals from joining groups which advocate highly unpopular views. We must recognize that the Constitution under which this entire Government must operate simply does not permit people to be penalized because of their membership in groups which advocate unpopular and offensive ideas and indeed leaves no room for the Government to frighten people out of doing so.

As Senator SAM ERVIN said during last year's debate over the funding of the Subversive Activities Control Board, "a fear of freedom" seems to permeate the air each time these issues are debated. We here in the Congress must make it clear that the freedom embodied in the first amendment is nothing to fear, but a precious value of our form of Government which we have an obligation to protect.

Mr. RYAN. Mr. Chairman, H.R. 9669 represents another attempt to revive the moribund SACB. In the 21 years of its existence, the SACB's single accomplishment has been to increase the load of our already overburdened courts by generating a vast amount of constitutional litigation. The total uselessness of the SACB was brought out once again when the appropriations bill for fiscal year 1973 for the State, Commerce, and Justice Departments came before the House on May 18. Contained in that bill was $450,000 for the SACB, an appropriation I opposed strongly.

Because the Federal courts have held most of the duties of the Board unconstitutional, Executive Order 11605 was issued and published in the Federal Register on July 7, 1971. This Executive order authorizes the Government, in evaluating the loyalty of its employees, to consider "knowing membership in, or affiliation or sympathetic association with" any group which is totalitarian, Fascist, Communist, subversive, which unlawfully advocates force or violence to deny others their constitutional rights, or which seeks to overthrow the Government by unlawful means. The SACB, under this order, was given the task of making a list of such organizations to replace the outdated Attorney General's list.

The constitutionality of this order has been questioned, and in *American Servicemen's Fund* v. *Mitchell*, C.A. No. 1776–71 (Memorandum and Order, January 10, 1972), although the district court dismissed the action as premature, it left no doubt about the ultimate unconstitutionality of the Executive order. The court stated:

> * * * the Order contains definitions governing listing which appear on their face to raise constitutional problems by reason of their vagueness and overbreadth and the resulting effect on the rights of many Government workers, present or future.

The bill currently under consideration is an attempt to legitimize this Executive order. It represents yet another step in the effort to revive an obsolete piece of Government machinery. Yet, not only does this legislation attempt to prop up this failing and unnecessary Board, it does so in a manner which is of doubtful constitutionality.

The bill would give the Board additional duties by empowering the President to delegate to the SACB the authority to conduct hearings and make findings with respect to the character of certain organizations in order to ascertain the suitability of persons, on loyalty and security grounds, for employment by the executive branch.

This may well constitute an unconstitutional delegation of legislative authority to the executive. There are no guidelines set forth in this legislation, no standards which would effectively circumscribe presidential action in this area. The President would be authorized to create any criteria in the desired "with respect to the character of relevant organizations."

We, in the Congress, are becoming increasingly aware and vocal about the need to reassert our constitutional authority in many areas of national concern. Passage of this measure would constitute still another instance of the abdication of congressional responsibility in favor of the executive by giving the President free rein in determining which associations represent a threat to national security.

The provisions of this bill dangerously undermine one of our basic freedoms, the right to assemble freely without fear of Governmental reprisal. The designation of "unloyal" associations is left to the discretion of the President. Because the provisions are so broad and vague, no one can predict with any certainty which associations present and future President might deem "unloyal." Surely, this is a serious constraint on the fundamental right of freedom of assembly.

Moreover, this is an unwarranted constraint. The House Internal Security Committee heard testimony from representatives of every cabinet department on this bill. None of the departments' spokesmen mentioned the need for ex-

panded and more elaborate security procedures.

This is potentially dangerous legislation At the very least it is unsound and repressive. It should be defeated.

Mr. ICHORD. Mr. Chairman, in closing I would say to the Members of the House that H.R. 9669 as amended by the committee amendment does only three things. Much of the general debate today I fear has been irrelevant to the problem at hand. H.R. 9669 does only three things.

One, it changes the name of the Subversive Activities Control Board to the Federal Internal Security Board.

Second, it authorizes the SACB to perform the function that used to be performed by the Attorney General. I think this is a decided improvement. We will separate the prosecuting function from the judging function.

Third, it would give the SACB or the Federal Internal Security Board the powers to carry out that function.

It is necessary to have subpena power. It is necessary to give the Federal Internal Security Board the power to go into court to get its orders enforced.

It would also provide for court review. That is what H.R. 9669 does, and I ask the Members of the House to support the transfer.

Mr. WYMAN. Will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New Hampshire.

Mr. WYMAN. It does not provide that any Federal employee loses his job because he is on any list of Subversive Activities Control Board renamed may come up with in the future, does it?

Mr. ICHORD. The gentleman is eminently correct. It does not.

Mr. Chairman, I have no further request for time.

Mr. ASHBROOK. I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(11) of the Subversive Activities Control Act of 1950 is amended by deleting the words "Subversive Activities Control Board" and inserting in lieu thereof the words "Federal Internal Security Board".

(b) Section 12(a) of the Subversive Activities Control Act is amended by deleting the words "Subversive Activities Control Board" and inserting in lieu thereof the words "Federal Internal Security Board."

(c) The caption to section 12 of the Subversive Activities Control Act of 1950 is amended to read "Federal Internal Security Board".

SEC. 2. The provisions of subsections (c) and (d) (1), (2), and (3) of section 13, and section 14 of the Subversive Activities Control Act of 1950, as amended, shall apply to proceedings conducted pursuant to section 12 of Executive Order 10450, as amended.

Mr. ICHORD (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed in the RECORD.

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

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PREYER OF NORTH CAROLINA

Mr. PREYER of North Carolina. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. PREYER of North Carolina:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Constitutional Oath Support Act."

STATEMENT OF PURPOSE

SEC. 2. It is the principal purpose of this Act to establish procedures in the executive branch to insure that the oath or affirmation to support the Constitution, required of Federal employees by law and in pursuance of Article VI, clause 3 of the Constitution of the United States, is taken in good faith. The procedures thus established are intended to provide a means for assuring that only such persons as are loyal to the Constitution, disposed to defend and maintain it against all enemies, foreign and domestic, and committed to the efficient execution of their duties thereunder, are employed by the Government of the United States.

EMPLOYMENT STANDARDS

SEC. 3. The President shall establish and maintain in the executive branch of the Government, including the United States Postal Service, an effective program to insure that no civilian officer or employee shall be employed or retained in employment in any department, agency, or establishment thereof as to whom there is a reasonable doubt that such person will in good faith support the Constitution of the United States.

AUTHORITY TO PRESCRIBE REGULATIONS

SEC. 4. (a) The President is authorized to institute such measures and prescribe such regulations, not inconsistent with the provisions of this Act, as may be necessary to establish and maintain the program required by section 3 and otherwise to execute the provisions and purposes of this Act.

(b) No department or agency (including any independent establishment) of the executive branch of the Government shall make any contract or agreement in contravention of any of the requirements of this Act and the regulations issued pursuant thereto. Any such contract or agreement shall be void and of no effect.

PREAPPOINTMENT INVESTIGATIONS

SEC. 5. (a) The appointment of each civilian officer or employee to any position in the executive branch of the Government shall be made subject to investigation to determine whether there is any reasonable doubt that such person will in good faith support the Constitution of the United States. The scope of the investigation shall be determined upon the basis of an assessment as to the degree of adverse effect an occupant of the position (by virtue of the character and location of the position) could bring about on the national and internal security, the national interest, and the mission of the agency in which employment is sought, but in no event shall an investigation include less than a national agency check and written inquiry with respect to the person under investigation, and the completion of questionnaires required by section 6 of this Act.

(b) No person shall be appointed to, or employed in, any position in the executive branch prior to (1) the completion of a national agency check and written inquiries, (2) the completion by such person of the questionnaires required by section 6 of this Act, and (3) a preliminary determination made on the basis of the results thereof that there is no evidence to sustain the conclusion that a reasonable doubt exists that such person will in good faith support the Constitution of the United States: *Provided, however,* That the President may, by regulation, exempt foreign nationals from the requirements of this Act, and may, for reasons which he shall certify are necessary and compelling in the national interest, authorize the appointment of a limited number or class of persons for employment prior to completion of the investigation required by the provisions of this section.

(c) Persons delegated to make evaluations of the reports and results of investigations shall be specially trained and qualified for their duties, and shall be knowledgeable by reason of study, training, or experience on the subject of the origin and history of subversive organizations, their diversity, ideologies, leadership, and semantics, their organizational, recruitment, and indoctrination techniques and practices, their propaganda, agitation, and conflict doctrines, their strategies and tactics.

ORGANIZATIONAL INQUIRY

SEC. 6. (a) In determining whether any person seeking or holding employment in the Government of the United States will in good faith support the Constitution, the President may consider any fact relevant and material to that determination, including, but not limited to, the holding of present or past membership in, or association with, organizations within the United States of the following types:

(1) organizations of whatsoever description which have as a purpose or objective the overthrow of the Government of the United States or of any State by force, violence, or any unlawful means;

(2) organizations which advocate, teach, or urge, as a principle to be translated into action, the propriety or necessity of armed resistance or resistance by force to the execution of laws of the United States or the propriety or necessity of assisting or engaging in any rebellion or insurrection against the authority of the United States; and

(3) organizations which have been organized, or which are substantially controlled, by one or more organizations, or members of one or more organizations, described in paragraphs (1) and (2) of this subsection, and which operate directly or indirectly in support of the purpose, objective, advocacy, or teaching of organizations described in the aforesaid paragraphs.

(b) All applicants for employment in the executive branch shall be required to complete a questionnaire in writing in response to the following questions:

"(1) (A) Have you ever organized or helped to organize or become a member of any organization or group of persons which, during the period of your membership or association, you knew was advocating or teaching that the Government of the United States or of any State should be overthrown or overturned by force, violence, or any unlawful means? (If your answer is in the affirmative, state the facts below.)

"(B) If your answer to question (1) (A) is in the affirmative, did you, during the period of such membership or association, have the specific intent to further the aims of such organization or group of persons to overthrow or overturn the Government of the United States or of any State by force, violence, or any unlawful means?

"(2) (A) Is there any reason why you cannot take and subscribe to an oath or affirmation that you will support the Constitution of the United States? (If there is, explain.)

"(B) Can you conscientiously, and do you, affirm that you are, without any mental reservations, loyal to and ready to support the Constitution of the United States?"

(c) In addition to such general inquiry

with respect to membership in, and association with, organizations set forth in subsection (b) of this section, each applicant for employment in the executive branch shall be required to complete a questionnaire in writing with respect to past or present membership in, or association with, such specifically named organizations as are relevant to the applicant's age group and have been determined by the Federal Employee Security and Appeals Commission, established pursuant to the provisions of this Act, to be of the types set forth in subsection (a) of this section.

(d) Nothing contained in this section shall be deemed to prohibit the President from making inquiry of any person seeking or holding employment in the Government with respect to his membership in, or association with, organizations hitherto designated pursuant to Executive Order 10450.

FEDERAL EMPLOYEE SECURITY AND APPEALS COMMISSION

SEC. 7. (a) A commission is hereby created and established, to be known as the Federal Employee Security and Appeals Commission (hereinafter also referred to as the Commission), which shall be composed of five commisioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three commissioners shall be members of the same political party. All persons appointed as commissioners shall be trained in the profession of law, admitted to practice before the bar of any Federal district court, or of the highest court of any State, and shall be knowledgeable by reason of study, training, or experience on the subject of the origin and history of subversive organizations, their diversity, ideologies, leadership, and semantics, their organizational, recruitment, and indoctrination techniques and practices, their propaganda, agitation, and conflict doctrines, their strategies and tactics.

(b) The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed for the unexpired term of the commissioner whom he shall succeed. Upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The President shall choose a chairman from the Commission's membership. Each member of the Commission shall be eligible for reappointment. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) The Commission shall have an official seal, which shall be judicially noticed. The principal office of the Commission shall be in the city of Washington, but it may meet and exercise its powers at any other place. Three members of the Commision shall constitute a quorum. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

(d) Subject to the civil service laws and classification acts, the Commission may appoint and fix the compensation of a chief clerk and such examiners and other employees as it may from time to time find necessary for the proper performance of its duties.

(e) The Commission may adopt such rules and regulations, not inconsistent with the provisions of this Act, as may be necessary for the performance of its functions and duties. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States. Examiners designated for such purposes shall possess the same training and knowledge as required in the provisions of subsection (a) of this section for the appointment of commissioners.

(f) The Commission shall at the close of each fiscal year make a report in writing to the Congress and to the President, stating in detail the work it has performed, the names, salaries, and duties of all employees of the Commission, and an account of all moneys it has disbursed.

FUNCTION OF THE COMMISSION

SEC. 8. (a) It shall be the duty and authority of the Commission—

(1) upon application made by the Attorney General, or such other person or persons as the President may authorize, to make determination whether an organization is of any of the types set forth in subsection (a) of section 6 of this Act;

(2) upon application made by the head of any department or agency in the executive branch, to make determination whether an organization is of any of the types set forth in subsection (a) of section 6, in cases in which this question is a controverted fact in issue (not previously determined by the Commission) in any agency proceeding pursuant to this Act, or other act or executive order;

(3) upon application made by an organization for a determination that such organization is no longer of the type set forth in subsection (a) of section 6, to hear and determine such application; and

(4) upon application made by any individual, other than an individual holding a position to which this paragraph has been made inapplicable by section 13(b), who has been dismissed from employment in any department or agency of the executive branch on the ground that there is a reasonable doubt that such individual in good faith will support the Constitution of the United States, or on other loyalty or security grounds, to receive, hear, and determine his appeal from any such adverse decision, under and subject to such conditions and limitations as the President may prescribe.

(b) Upon application being made by any party in interest as provided in subsection (a) of this section, the Commission after notice and hearing shall make a report in writing and shall state its findings as to the facts and cause to be served on the parties to the action an order setting forth its determination of the issue with respect to which the application is made. A record open to the public shall be maintained of all proceedings, and copies of all such proceedings before the Commission shall be furnished to any person upon request and upon payment of the reasonable costs thereof as then currently fixed by the Commission: *Provided, however,* That the record of the whole or any part of the proceedings to which members of the general public have been denied access pursuant to subsection (d) of this section, may be closed to the general public in accordance with such regulations and upon such limitations as the Commission may determine.

(c) The Commission may, by one or more of its members, or by such examiners as it may designate, hold hearings, administer oaths and affirmations, examine witnesses and receive evidence at any place in the United States, and may require by subpoena the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed relevant to the matter under inquiry. Each party to any evidential hearing conducted by the Commission shall have the right to the assistance of counsel, to offer oral and documentary evidence, and to cross-examine witnesses. The testimony and proceedings shall be recorded and transcribed by persons designated by the Commission, and shall be filed in the office of the Commission. Proceedings shall be conducted promptly. The Commission shall establish such rules and practices as shall provide for the expeditious performance of its duties.

(d) All hearings conducted by the Commission shall be public: *Provided, however,* That members of the general public may be denied access to the whole or any part of the proceedings and hearings conducted pursuant to paragraph (4) of subsection (a) of this section, except in cases where the individual affected makes demand for a public hearing.

(e) Where an organization declines or fails to appear at a hearing accorded to it by the Commission in proceedings initiated pursuant to paragraph (1) of subsection (a) of this section, the Commission shall nevertheless proceed to receive evidence, make a determination of the issues, and enter such order as shall be just and appropriate. A dissolution of any organization subsequent to the date of filing of any application for a determination of its character under such paragraph shall not moot or abate the proceedings, but the Commission shall receive evidence and proceed to a determination of issues: *Provided, however,* That if the Commission shall find such organization to be of the type alleged as of the time of the filing of such application, and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Commission shall enter an order determining such organization to be of the type alleged, and shall make a finding of the fact and date of its dissolution.

(f) No application shall be made pursuant to the provisions of paragraph (3) of subsection (a) of this section more than once in each calendar year. The application shall be filed in such detail and in such form as the Commission shall by regulation prescribe. Upon failure of any organization to appear at a hearing accorded to it in proceedings pursuant to the said paragraph (3), the Commission may forthwith, and without further proceedings, enter an order dismissing the application.

COMPULSORY PROCESS AND IMMUNITY OF WITNESSES

SEC. 9. (a) Subpoenas may be authorized, signed, and issued by any member of the Commission or any duly authorized examiner. Subpoenas shall be issued upon request of a party to the proceeding, and upon a statement or showing of general relevance and scope of the evidence sought. The attendance of witnesses and production of documentary evidence may be required from any place in the United States, and at any designated place of hearing. Witnesses summoned shall be paid fees and mileage in amounts authorized to be paid to witnesses in the district courts of the United States.

(b) In case of disobedience of a subpoena, the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear (and to produce documentary evidence, if so ordered) and give evidence relating to the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(c) No person, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, or subject him to a penalty or forfeiture, shall be excused from testifying or producing documentary evi-

dence; but no natural person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

MISBEHAVIOR AT HEARINGS

SEC. 10. Any person who, in the course of any hearing before the Commission, any member thereof, or any examiner designated thereby, shall misbehave in their presence or so near thereto as to obstruct the hearing or the administration of the provisions of this Act, shall be guilty of an offense, and, upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine of not less than $100 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment. Whenever a statement of fact constituting such misbehavior is reported by the Commission to the appropriate United States attorney, it shall be his duty to bring the matter before the grand jury for its action.

JUDICIAL REVIEW

SEC. 11. (a) The party aggrieved by any order entered by the Commission determining any organization to be of the type set forth in section 6, or affirming the denial or dismissal of employment of any appellant before the Commission, may obtain a review of such order by filing in the United States Court of Appeals for the District of Columbia within fifteen days from the date of service upon it of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record in the proceeding, as provided by section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Commission; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States court of appeals for the circuit wherein the petitioner resides. The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. The judgment and decree of the court shall be subjected to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(b) The taking of any appeal, or the making of any application for or grant of certiorari, as provided by subsection (a) of this section, shall not operate as a supersedeas, nor shall the operation or effect of the determination of the Commission from which appeal is taken or review sought be stayed by any court pending final disposition of the appeal, review, or any remand.

PRIOR EXHAUSTION OF ADMINISTRATIVE REMEDIES

SEC. 12. No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction to question the authority, function, practice, or process of the Commission, any commissioner, any examiner designated by it, the Attorney General, or such other person as the President may designate, and their agents, and no such court shall have jurisdiction of any action or proceeding on the complaint of any person adversely affected by the enforcement, execution, or application of the provisions of this Act, except after exhaustion of the administrative or other remedies authorized or provided pursuant to the provisions of this Act.

HEARINGS ON DISMISSALS

SEC. 13. (a) Individuals in the civil service whose removal or suspension without pay is sought on the ground that there is a reasonable doubt that any such individual will support the Constitution, shall be accorded the benefits of such notice and hearings as are accorded by law and regulation to individuals in the competitive service: *Provided, however*, That any determination adverse to any such individual shall be subject to review on application to the Federal Employee Security and Appeals Commission as provided in paragraph (4) of subsection (a) of section 8.

(b) Neither the provisions of this section, nor of paragraph (4) of subsection (a) of section 8, shall be applicable to individuals holding positions to which appointments are made by nomination for confirmation by the Senate, or to individuals holding employment in the Federal Bureau of Investigation, Central Intelligence Agency, and National Security Agency.

LAWS REPEALED AND AMENDED

SEC. 14. (a) The Subversive Activities Control Act of 1950 is repealed.

(b) Clause (92) of section 5316 of title 5, United States Code, is amended as follows: (1) by striking the words "Subversive Activities Control Board", and (2) inserting in lieu thereof the words "Federal Employee Security and Appeals Commission".

(c) Section 7311 of title 5, United States Code, is amended by striking paragraphs numbered (1) and (2).

(d) Subsection (b) of section 410 of title 39, United States Code, is amended (1) by striking the word "and" at the end of clause (5), (2) by striking the period at the end of clause (6) and inserting in lieu thereof a semicolon followed by the word "and", and (3) by adding at the end of said subsection the following: "(7) the provisions of the Constitutional Oath Support Act."

SEPARABILITY OF PROVISIONS

SEC. 15. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

APPROPRIATION

SEC. 16. There are authorized to be appropriated to the Federal Employee Security and Appeals Commission the unexpended amounts hitherto appropriated for this fiscal year for the use of the Subversive Activities Control Board.

Mr. PREYER of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from North Carolina is recognized for 5 minutes in support of his amendment.

Mr. PREYER of North Carolina. Mr. Chairman, it is difficult to deal with something as complex as this in 5 minutes. However, I shall principally try to answer some of the questions raised about the bill.

First, let me say that I am not a crusader in this area. I did not seek my appointment on this committee or as chairman of this subcommittee.

So, I have approached this whole question as a job to do. I have tried to come up with the best-balanced program between national security and personal liberty that I have been able to achieve. I think Chairman ICHORD agreed that there may be some better suggestions than we have right now.

First, on the subject raised by the gentleman from Ohio (Mr. ASHBROOK) in his "Dear Colleague letter," I do not think we should allow this to alarm us too much. The gentleman from Ohio says for one thing that our amendment would repeal a number of existing laws, and that is true. However, I want to point out the fact that everyone of those laws which this repeals, all were duplicated by laws on the books, or they are laws which have been voided by Supreme Court decision, or they are laws which have never been enforced, and evidently treated as "dead letters" by the Department of Justice.

There is a memorandum which has been inserted into the RECORD on this subject at page 19077. I agree that a lot of that deadwood ought to be repealed. Nothing substantive has been changed.

Second, his "Dear Colleague letter" presumes to say that if this amendment is held unconstitutional, then the whole security program would fall. This is simply not the case.

The President has inherent authority to maintain a security program. He can do what is necessary. This amendment does not disrupt Executive Order 10450. It just says that there is a minimum of what you have to do, and that Executive order can be easily modified to fit in with our amendment.

Third, is the question of repealing the findings of the Subversive Activities Control with reference to Russian Communists. Well, I think we ought to repeal that, for this reason. The purpose of our amendment is to enact legislation to screen for employment without engaging in characterization of shifting organizations.

Mr. ICHORD. Mr. Chairman, would the gentleman yield? I do not wish to interrupt the gentleman, but I think the Members will not object to a unanimous-consent request for additional time.

I wanted to elaborate upon the point brought out by the gentleman from North Carolina in regard to the contention of the gentleman from Ohio that it would repeal several provisions now in the Subversive Activities Control Act.

For example, is it not true, I would ask the gentleman from North Carolina, that the Subversive Activities Control Act of 1950 prohibits members of the Communist Party from holding Federal employment?

Mr. PREYER of North Carolina. The gentleman is correct.

Mr. ICHORD. And it is also true, is it not, I would ask the gentleman from North Carolina, that that specific question has never been passed upon by the Supreme Court?

Mr. PREYER of North Carolina. The gentleman is perfectly correct.

Mr. ICHORD. Is it not also true, I would ask the gentleman from North Carolina, that present departments of the Government have members, known members of the Communist Party in their employment?

Mr. PREYER of North Carolina. The gentleman is further correct.

Mr. ICHORD. So what the gentleman from North Carolina is repealing by this substitute is an act that has not been enforced, and is not being enforced by the present administration?

Mr. PREYER of North Carolina. The gentleman is correct.

I do not see where much is lost by repealing the recitation of the 1950 cold war history, which does not really apply to the world pluralistic communism we have today at this particular moment in our history.

This is a bill dealing with legislation, not dealing with a series of facts.

Finally, to address generally the question that the gentlewoman from New York and the gentleman from Texas (Mr. ECKHARDT) raised, whether mere inquiry into membership would discriminate against a persons employment? That is, would the interviewer make sure that the person was an active and knowing member.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(By unanimous consent, Mr. PREYER of North Carolina was allowed to proceed for 2 additional minutes.)

Mr. PREYER of North Carolina. The answer to that question, I think, the legal answer, is in its judicial review, and you must count on that as keeping the agency and the hearings honest. But beyond that I think we have to have some sort of inquiry of this kind.

For example, let us take the Black Panther Party. Now, there are all sorts of Black Panthers. There is the Black Panther who joins through highly idealistic motives to help his black neighborhood, and views it in terms of a breakfast program. So that, I do not think, you would want to bar that kind of a Black Panther from employment in the government.

There is also the revolutionary kind of Black Panther, and you do want to bar that man. I do not know how you can answer that question unless you allow some kind of flexibility in it. We cannot look inside a man's mind and see what is his intent, you have to judge by his acts. And if he joins the Communist Party he does it of his own free will. Nobody forces him to do it.

So what we are driving at does not seem to me to be any gross invasion of a person's privacy to ask and to inquire, "Were you really a Communist? Or was that a mistake of your youth, and are there reasons why you should be excused?"

In an imperfect world I do not know how we can do any better than that as far as protecting people's privacy.

So that I think the amendment is an effort to try to strike a balance between personal freedom and the security of our country.

Mr. Chairman, I hope the amendment will be adopted.

Mr. ZION. Mr. Chairman, I speak against the amendment—which is actually the bill, H.R. 11120. I do not question the sincerity and good intent of its sponsors but I want to point out that, ofter being introduced, this bill was referred to, but failed to win approval of, the Committee on Internal Security.

This amendment would repeal in its entirety the Subversive Activities Control Act of 1950, a statute which contains 20-odd provisions in the security area.

The Supreme Court, referring to the congressional findings about the nature, strategy, and tactics of the world Communist movement found in the Subversive Activities Control Act, has stated:

> They are the product of extensive investigation by Committees of Congress over more than a decade and a half. . . . We certainly cannot dismiss them as unfounded or irrational imaginings.

The same thing can be said about the more than a score of criminal and other provisions in the statute. They were enacted because "extensive investigation by Committees of Congress," over a period of many years, revealed their need. Each one of them was designed to cope with a known form of Communist subversion that had been documented in hearings and reports of the Congress.

There is no evidence that the Communists of today have abandoned these specific tactics and activities. Therefore the statute is still needed and there is no basis for repealing it.

It has been pointed out that the Committee on Internal Security has held extensive hearings on the loyalty-security program and the administration of the Subversive Activities Control Act. Not one of the many Government attorneys and security officials who testified in these hearings urged or supported repeal of the statute. The Department of Justice strongly opposed enactment of this amendment—H.R. 11120—to repeal it.

Why?

The Department representative pointed out, for example, that it would repeal a section of the Foreign Agents Registration Act which is considered by the Foreign Agents Registration Section of the Internal Security Division of the Department to be "one of the most effective weapons in the enforcement of" that statute.

What would this amendment substitute in place of that section? Nothing. It would simply create another gap in our security.

The Department also pointed out that this proposal would repeal a statute designed to protect classified Government information from enemy agents, a statute under which a former State Department official in Poland, Irving Scarbeck, was successfully prosecuted for giving Government secrets to a Communist agent, a statute, I might add, upheld by the Supreme Court.

What would this amendment substitute for this provision? Nothing.

The Justice Department representative pointed out, in addition, that this measure would repeal the statute under which Daniel Ellsberg has been indicted for making the Pentagon papers available to the Soviet Union and all other enemies of this country, as well as to everyone else in the world.

It would repeal a statute making it a misdemeanor to willfully violate orders designed to protect defense weapons and facilities from sabotage and other subversive actions.

It would replace the present personnel security standard that employment must be "clearly consistent with the interests of the national security" with a new standard which, the Department of Justice states, compares unfavorably with the present one because it is based on a person's subjective intentions. An applicant for employment will swear to support the Constitution "in good faith"—his good faith. But what faith is that?—faith a la Mao, or Stalin, or Castro, or Brezhnev? Do we want the "good faith" of the Weathermen or the Black Panthers to be the standard for Government employment?

What would this measure do to the Attorney General's list, for 30 years the yardstick in weighing a person's fitness for a Government position? It would eliminate from the list the following classifications of organizations—"Fascist," "Communist," "totalitarian," and "subversive."

Today, a person is not eligible for a Government job if he is knowingly and purposefully affiliated with such groups. If this measure were adopted, however, members of such groups would have entree into the Government service to carry out their subversive aims from within—unless the Government could prove that the organization, in addition to being fascist, totalitarian, and so forth, also advocated overthrow of the Government, rebellion or insurrection against its authority, armed or forceful resistance to the execution of its laws, or was actually controlled by such groups or their members.

Anyone familiar with present-day subversion knows that there are many Communist and subversive groups functioning today which cannot be proved to have such a program. There could be any number of Fascist, Nazi, and other totalitarian groups of this kind functioning tomorrow. But, under the standard provided in this measure, none of them could be placed on the Attorney General's list and we could well end up with a Government riddled with adherents of subversive alien ideologies. Is this what we want?

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

Mr. ZION. I am pleased to yield to my colleague.

Mr. WYMAN. Mr. Chairman, in the gentleman's opinion, does the present atmosphere at the top policy levels of the Government of the United States and the Soviet Union reflect in any way a need for the bill presently before the committee?

Mr. ZION. Certainly, not—certainly not.

Mr. WYMAN. Why not?

Mr. ZION. Because it is quite apparent that although the President is making really good moves and in good faith—what is considered good faith by one nation or one group of individuals would not be considered good faith by others.

For example, an applicant for employment, and this is what we are talking about, may well swear to support the constitution "in good faith." But it is his faith. And what faith is that? Is it the faith of Mao? Is it the faith of Stalin? Or the faith of Castro or Brezhnev?

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

Mr. ZION. I yield to the gentleman from New Hampshire.

Mr. WYMAN. Is it not a fact that there would be a need for a continuing function of this type having nothing whatever to do with communism or the Communist Party?

Mr. ZION. Certainly. There are many other groups, as I have said.

Mr. WYMAN. There are many organizations that have as an objective the overthrow of the government or acts of violence that are not related to communism.

Mr. ZION. There are, indeed, as the gentleman from New Hampshire well knows in his former capacity. He has witnessed such groups as a former State attorney general and chairman of the Internal Security Committee on the National Association of Attorney's General of the United States.

It has been argued by proponents of this measure that some of the statutes it would repeal are "essentially duplicated" in other statutes. This is like arguing that we can repeal our kidnaping laws because they are "essentially duplicated" in theft and robbery laws and kidnaping is no more than stealing, so it would not matter at all. The argument is unconvincing for obvious reasons.

Moreover, the fact of the matter is there are no other statutes which do precisely what the statutes this amendment would repeal do, and real gaps in our security will be created by its enactment.

They have also argued, for example, that no harm would be done because there has never been a prosecution under some of the statutes they would repeal. They cite, as one example, section 5 of the Subversive Activities Control Act, which makes it a criminal offense for officials or employees of the Government to make financial contributions to the Communist Party. They have written "it would appear that this provision is not enforceable, nor is it being enforced. It is a fact of significance that no prosecution has been instituted" under this provision since its 1950 enactment.

Such reasoning is thoroughly specious. Can any supporter of this amendment name a single Government official or employee who has made financial contributions to the Communist Party, who therefore should have been prosecuted under the statute, but has not been? I wait for an answer.

Logic indicates that the very opposite of their claim about this provision is true. Namely, that it has been 100 percent effective. With this statute in effect, the few people in Government employment who may wish to make contributions to the Communist Party have been afraid to do so. They know of this statute, they are afraid to violate it, to risk the chance of a fine and term in prison. There is such a thing as "preventive medicine" in law. All the evidence indicates that this statute has been completely successful as a deterrent, drying up all contributions to the Communist Party from Government employees.

Repealing this statute now—and that is what we are being asked to do—would be just like saying to all officials and employees of the Government: "As far as we, the Congress, are concerned, it is perfectly OK for you to help the Communist Party financially. Go ahead and do it. We've had a law against it, but we see no need for it or use in it, and have decided to repeal it."

It is not surprising that the Veterans of Foreign Wars, the American Legion, and a number of publications and columnists, as well as the Department of Justice, have opposed and criticized this measure.

We have every reason to vote for its defeat.

Mr. DAVIS of South Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the distinguished gentleman from Missouri, the chairman of the House Committee on Internal Security, has done the country a great service in bringing before the House these important issues which require our action. The question of the retention of the Subversive Activities Control Act of 1950 has become the subject of much controversy by reason of the failures in its enforcement. The Subversive Activities Control Board, established by the act, has been the subject of much adverse comment by reason of the failures of its workload.

We, therefore, have before us a most serious issue whether the Subversive Activities Control Act of 1950 should be repealed, or whether it should be retained and some means taken to revitalize the Board. It is our duty to see that public funds are not wasted and, more importantly, to see that important programs in the interest of our national security are not neglected.

The Committee on Rules in its wisdom—and I compliment its chairman, the distinguished gentleman from Mississippi and its members—has given us the opportunity to meet this issue squarely and by providing alternative routes toward its solution.

The bill, H.R. 9669, would continue the existence of the act and the Board which it established. It would not, however, expand the present enforcement—or lack of enforcement—of that act, but it would delegate an additional function to the Board in connection with the present civilian employee loyalty and security program.

On the other hand, the bill H.R. 11120—known as the Ichord-Preyer bill—would abolish the Board, but would establish in its place a Federal Employee Security and Appeals Commission, together with a comprehensive loyalty program. There is much to be said in favor of both approaches.

I only recently became a member of the Committee on Internal Security, and did not have the privilege of participating in the committee action on these measures; but I fully support the chairman and I want to compliment him and the other members for their thorough and objective approach to the issues. I also want to express my regard for the subcommittee chairman, the distinguished gentleman from North Carolina, whose subcommittee has conducted a most intensive examination of the issues with which we are faced today.

The time for taking a cold, hard look at the Subversive Activities Control Board is long overdue. H.R. 11120 surely will not solve all problems for all time in the field of employee security, but it appears to me to offer a far greater prospect for improvement over the existing situation than H.R. 9669. Therefore, I intend to cast my vote in favor of the proposed amendment which would substitute H.R. 11120.

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

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I supported the rule making H.R. 11120 in order, because I think it does pertain to matters which should be discussed by this body. It is my intention to vote for the amendment offered by the gentleman from North Carolina. However, I am not pushing the same. My position is very pragmatic. First, I think that H.R. 11120 is a superior approach, but it does not have any constituency. In fact, the extreme left wing, the Committee Against Repressive Legislation has put out several circulars against this "atrocious" act, H.R. 11120. Some of my more conservative friends and those of the right are opposed to it, because it repeals the Subversive Activities Control Act of 1950, and abolishes the Subversive Activities Control Board. Nevertheless, I still consider it a superior approach, but I do not think it has any chance of surviving the legislative hurdles.

I do feel, since I intend to vote for the measure, constrained to point out that the gentleman from Ohio in a circular letter, I believe, has been quite harsh in regard to the sponsors of H.R. 11120 when he states that it would eliminate certain laws. I would point out to the Members of this House that those measures which the gentleman states in his circular letter would be eliminated are either already duplicated in title 18, or they have been voided by the Supreme Court of the United States or the administration is not enforcing those provisions.

For example, let us look at the first provision he says would be eliminated. I read the same: First, for anyone to knowingly combine, conspire or agree with another person or persons to perform action which would contribute substantially to the establishment in the United States of a totalitarian dictatorship.

I would point out to the Members that this provision was undoubtedly voided by the decision of Baggett against Bullitt. In any event there has never been a prosecution under that vague provision. My position is that we should either fish or cut bait. We should either enforce the law or take it off the books.

Let us go on to No. 2. For officials and employees of the United States to communicate classified security information to representatives of agents of foreign governments—that offense is duplicated. It is already covered under the espionage statutes of title 18.

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

Mr. ICHORD. I yield to the gentleman from Ohio at this point.

Mr. ASHBROOK. Mr. Chairman, I think the gentleman should point out in all fairness that the statute he says this duplicates relates only to matters of defense, where this refers to classified other security information also. Is that not accurate? There is a difference between these and defense secrets.

Mr. ICHORD. It is my position, I will state to the gentleman from Ohio, that title 18 also covers matters referred to by the gentleman.

Mr. ASHBROOK. It does not refer only to defense. This refers to classified information. There is a big difference between classified security information and information only in the area of defense. I will agree there is a disagreement as to what is repealed and what is not repealed, and this is an example.

Mr. ICHORD. Let us go on to Nos. 4 and 5, and they are practically the same. Take the fifth one.

For Communist Party members and members found to be Communist fronts by the SACB to hold government positions—that is under section 5(a)(1)(B).

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 5 additional minutes.)

Mr. ICHORD. Mr. Chairman, this is a section that has not been enforced by the administration or preceding administrations. The failure to enforce a law only breeds disrespect for the law, and I am sure the gentleman from Ohio will readily concede that there are known Communist Party members now employed.

It is in direct contradiction to the statute which is on the books.

For example, on page 5985 of the committee hearings there is a letter from the Post Office Department which indicates that they have three known members of the Communist Party U.S.A.

That section is not now being enforced.

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

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

Mr. ASHBROOK. The gentleman is not contending, as he said earlier, that this would be duplicative. This is a case where he simply wants it off the books?

Mr. ICHORD. Not in this case. I am merely contending that the law is not being enforced. I contend that this breeds disrespect for the law. Either enforce it or take it off the books.

Mr. ASHBROOK. I appreciate the gentleman yielding, and although this is not in sequence, let us go back to point one.

Mr. ICHORD. I am not talking about point one, I would state to the gentleman from Ohio. I am talking about point five.

Mr. ASHBROOK. I believe the same thing applies.

Mr. ICHORD. Am I not correct that there are three known Communist Party members employed by the Post Office Department?

Mr. ASHBROOK. I cannot say the gentleman is correct in saying that. He is correct that the information has come to our attention. The gentleman has stated the testimony correctly.

Mr. ICHORD. I would refer the gentleman to page 5985 of the committee hearings, a letter from the Post Office Department to Mr. Nittle so advising.

Mr. ASHBROOK. It does not say they are members of the Communist Party. That is why I cannot say, in answer to the question, whether they are now or not. The evidence says that they were members; is that not correct?

Mr. ICHORD. Certainly there would be the matter of the finding involved, but there is no action being taken to enforce this law.

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

Mr. ICHORD. I yield to the gentleman from New Hampshire.

Mr. WYMAN. Does the gentleman suggest the failure to enforce this statute in any way lessens the need for the statute to be on the books?

Mr. ICHORD. No, I am not suggesting it. What I am suggesting to the gentleman from New Hampshire is that if the law is going to remain on the books we ought to enforce it, because failure to enforce the law breeds only disrespect for the law.

Mr. WYMAN. I agree with the gentleman.

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

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

Mr. ASHBROOK. The statute specifically refers to employees who are members of the Communist Party. As I understood the testimony, the witness referred to members of the Post Office Department, employees, who were members, so there would be no way they could be prosecuted. That is my understanding. Is that not correct?

Mr. ICHORD. If they were members of the Communist Party U.S.A., No. 5 or section 5(a)(1)(B) states it is unlawful for them to hold Government employment.

Mr. ASHBROOK. And the gentleman is saying that we should take it off the books and has nothing to substitute for it.

The point the gentleman gave, as I understand it, does not bear out the example, because the testimony was that they had three employees who were members of the Communist Party U.S.A. The statute specifically refers to employees who are members, so there would be no way to prosecute. That does not apply here.

Mr. ICHORD. I stated at the outset all those provisions had either been voided by the Supreme Court or they were duplicative of other provisions or else the law was not being enforced.

Mr. ASHBROOK. I respectfully disagree with the gentleman.

Mr. ICHORD. I am making the contention now that the law is not being enforced

Let us go to No. 10. I believe the gentleman here may well have a point. However, it is my position that H.R. 11120 does not repeal any part of the Foreign Agents Registration Act of 1938.

Mr. PREYER of North Carolina. Mr. Chairman, will the gentleman yield?

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

Mr. PREYER of North Carolina. On the question of the three Communist Party members, which the gentleman was discussing, at page 5986 of the record there is a letter from the Post Office Department which points out that only one of those now presently employed by the Post Office Department is a past member of the Communist Party.

Mr. ICHORD. But he has been identified as a member of the Communist Party.

Mr. ASHBROOK. It says identified as a former member, not identified as a present member. Is that not correct?

Mr. PREYER of North Carolina. I believe if the gentleman will look at the letter from the Post Office Department addressed to me, on page 5986, it identifies two of them as present members of the Communist Party.

Mr. DULSKI. Mr. Chairman, I rise in opposition to the amendment for several reasons.

First, I believe there is a serious question of committee jurisdiction involved in the amendment. When the provisions of this amendment, as contained in H.R. 11120, were introduced, I immediately directed a letter to the chairman of the Committee on Internal Security pointing out that many of the procedures proposed to be established under these provisions would be in direct conflict with existing procedures under provisions of law codified in title 5, United States Code.

While jurisdiction of the Internal Security Committee extends to Communist and other subversive activities affecting the internal security of the United States, all matters relating to Federal employees are covered by the jurisdiction of the Committee on Post Office and Civil Service.

I think it highly unusual for an amendment of this magnitude to be offered under the procedure that was authorized by this rule without any consideration having been given by the Committee on Post Office and Civil Service which has this primary jurisdiction over matters affecting Federal employees.

Of more significance in my opposition to the amendment is the position taken by the administration which is strongly opposed to any of these provisions.

I have requested information on this matter from the Civil Service Commission and they have forwarded to me the statement representatives of the Commission made before the Committee on Internal Security. I agree with the points they have raised in opposition to the amendment and urge the Members here today to defeat the amendment.

Some of the major points in opposition are—

First, there is no constitutional or other legal requirement for an oath by employees as distinguished from officers in the constitutional sense.

Second, the proposed requirement for preappointment investigation is not realistically operable because it would result in a tremendous increase in the work to be done on an urgent basis and would be costly and time consuming. Presently security checks are made on less than 20 percent of appointees.

Third, the new loyalty criterion and the considerations required under sections 3 and 6 of the amendment will not meet the requirement for denying Government employment on the basis of membership in the Communist party or in any subversive organization because of the requirement that membership must be shown to include the member's knowledge of the organization's unlawful purposes and the member's specific intent to further those unlawful purposes.

Fourth, the proposed Federal Employment Security and Appeals Commission would create jurisdictional confusion as between the Commission and the functions of the Civil Service Commission in the appellate area, whereas the existing appeal rights to the Civil Service Commission are fully adequate.

The amendment specifically is made applicable to the U.S. Postal Service. It will create a whole new bureaucracy to administer a Federal security program based on requiring Federal employees to take an oath that they will in good faith support the Constitution of the United States and that persons will not be employed where there is a reasonable doubt that they will not in good faith support the Constitution. The problem is who is going to determine what is meant by "good faith."

The repeal of the Subversive Activities Control Act will largely nullify more than 20 years of work in this area to control the Communist program. If enacted, it will leave the American people unprotected from a variety of subversive operations because of the repeal of several existing provisions of law.

Mr. Chairman, we are convinced that the amendment would create unwarranted administrative difficulties and should be defeated.

The letter follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., February 3, 1972.

HON. RICHARD H. ICHORD,
Chairman, Committee on Internal Security, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 11120, a bill "To repeal the Subversive Activities Control Act of 1950 (title I of the Internal Security Act of 1950), to establish procedures assuring that the constitutional oath of office shall be taken in good faith, and for other purposes."

The basic purpose of H.R. 11120, as expressed in sec. 2 of the bill, is to ensure that employees of the Government are persons loyal to our Constitution and disposed to defend and maintain it against all enemies. We have several doubts as to the bill's operational feasibility. Our principal concerns over some of the provisions of H.R. 11120 are set out hereinafter.

The bill is based largely on the conclusion expressed in sec. 2 that law and Article VI, clause 3, of the Constitution require an oath or affirmation to support the Constitution by all "Federal employees". Just what "law" the bill has reference to is not evident but if the reference is to 5 U.S.C. § 3331 (1970 ed.) it should be noted that that statute has been held to apply only to officers in the constitutional sense and not to Federal employees. (40 Comp. Gen. 500 and decisions cited therein.) The provision of the Constitution referred to requires, *inter alia*, such an oath or affirmation by "all executive * * * *Officers.*" (Emphasis added.) Whether such an oath or affirmation is required by the Constitution of Federal *employees* is not evident either from the constitutional language or any law interpreting that language that we are aware of. We hasten to add that we do not question the power of Congress to require a constitutionally sound loyalty oath or affirmation by Federal employees; but we do believe that further thought may be in order on the conclusion that such an oath or affirmation is a *constitutional* requirement for individuals who serve the Government in positions that are not offices in the constitutional sense.

Sec. 5 of the bill would require a preappointment investigation of not less than a national agency check and written inquiries (NACI) for each appointee to an office or position in the executive branch. Moreover, the section would require that every such appointee be appointed subject to investigation [1], the degree of which would depend on the nature of the office or position. While we do not dispute the theoretical benefit of these requirements, we do not consider them realistically operable.

A preappointment investigation reqirement of the type mentioned would result in such a tremendous increase of work to be done on an urgent basis (many applicants as well as agencies would not or could not wait out the average 8-week delay that an NACI now requires), that implementing the provision is likely to prove operationally unrealistic and, certainly, costly and time consuming.

While we would not attempt to forecast the judicial reaction to the new loyalty criterion or the considerations specified as relevant and material to determining whether the criterion is met (secs. 3 and 6 of the bill) we are concerned that some of these provisions appear to have the same basic fault that courts have found in existing oaths, both Federal and non-Federal. Accordingly, we endorse the observation of the Department of Justice in its report on H.R. 11120 that these provisions "may result in unfavorable judicial scrutiny" by reason of the principles of law contained in the cases cited by the Department.

To highlight the concern expressed in the immediately preceding paragraph we call attention to the recent decision by the United States District Court for the Northern District of California in *Cummings* v. *Hampton*, No. C–70 2130 RFP, October 14, 1971 In that case, the court permanently enjoined the Government from requiring an applicant to answer loyalty questions on a Government form because the court found them to be constitutionally defective as vague and overbroad. The court stated that case law bars the denial of Government employment solely because of membership in the Communist Party or in any subversive organization as to to do so would not rest upon the constitutionally valid basis that such a membership, to be offensive to Government employment, must be with the member's knowledge of the organization's unlawful purposes and with that member's specific intent to further those unlawful purposes. Moreover, the court ruled that even had the Government's questions been constitutionally sound on those bases, the Government failed to meet the following test expressed by the Supreme Court:

"When a State (or the Federal Government) seeks to inquire about an individual's beliefs and associations, a heavy burden lies upon it to show that the inquiry is necessary to protect a legitimate state interest." *Baird* v. *Arizona*, 401 U.S. 6 (1971); *Gibson* v. *Florida*, 372 U.S. 539 (1963).

The loyalty questions in sec. 6(b) of H.R. 11120 may meet the judicial test of knowing membership with the specific intent to further the organization's unlawful aims, but the testing considerations in sec. 6(a) entirely omit the "knowingness" and "intent to further" elements (an omission that could be faulted by a court). We note also that sec. 6(c) of the bill also refers to membership alone without the constitutionally required adjuncts of "knowingness" and "intent to further." Moreover, there is no showing in the "four corners" of the bill that establishes the existence of a legitimate governmental interest which makes these inquiries of all employees necessary, unless it is the inference that they are needed to determine whether the oath is take in good faith. As noted hereinbefore, there is a question as to whether the taking of such an oath is constitutionally required of all employees as distinguished from officers in the constitutional sense. The want of such an express showing in the bill leaves open the danger of a court disapproving the use of the questions because, as stated in the *Cummings* decision, *supra*, "the Government has not suggested any significant Federal interest which would necessitate the inquiry * * *. Thus, plaintiff's (the employee's) First Amendment rights are not 'outweighed by the state's interest in ascertaining the fitness of the employee for the post he holds' * * *."

The Civil Service Commission endorses the views of the Department of Justice relative to the proposed establishment and operation of the Federal Employee Security and Appeals Commission (FESAC) by sec's. 7 through 13 of the bill. In addition, the Civil Service Commission objects to those provisions of sec's. 8 and 13 which would vest the FESAC with authority to decide an administrative appeal from an individual removed from employment in the executive branch on the ground that there is "a reasonable doubt that such individual in good faith will support the Constitution of the United States, or on other loyalty or security grounds."

(Note, in this regard, the significant difference between sec. 8(a)(4) which includes an adverse action based on "other loyalty or security grounds" and sec. 13(a) which is limited strictly to reasonable doubt that the person will support the Constitution.) This authority would conflict with, and create jurisdictional confusion relative to, the right of executive branch employees to appeal removals and other adverse actions to the Civil Service Commission under statute (5 U.S.C. § 7701 (1970 ed.)) and Executive order (Executive Order No. 11491). Furthermore, the Commission is strongly opposed to any statutory provision that segregates one aspect of Federal personnel administration from all others which are under the jurisdiction of the Commission. The Civil Service Commission is the central personnel agency of the executive branch and, as such, must be able to coordinate all facets of the Government's personnel program.. Hence, the authorization of the FESAC to decide employees' appeals in the loyalty and security areas would result in a distortion of the programmatic needs of the Government. We feel strongly that the existing appeal rights to the Civil Service Commission are fully adequate and that no new administrative appellate authority is necessary in the limited area of loyalty and security.

By reason of the foregoing, the Civil Service Commission is opposed to the enactment of H.R. 11120.

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

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON, *Chairman.*

[1] Contrast this requirement with the current practice which limits preappointment investigations to sensitive positions which constitute only about 20% of those to be filled. To attempt to comply with such a requirement would probably result in the investigation of applicants before certification whenever possible which would increase the number of NACI's required far beyond the 80% addition of actual positions to be filled.

Mr. WYMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will not take the full time, but I would like to ask the gentleman from North Carolina this question.

In section 3 of your proposal you set up a proposed security program for the whole country that says no civilian officer or employee shall be employed or retained in employment in any department or agency of the Federal Government as to whom "there is reasonable doubt that such person will in good faith support the Constitution of the United States."

I want to ask you, if you think Executive Order 10450 or the Internal Security Act of 1950 is too broad or too general, then how can you possibly propose anything as nebulous as this language or standard and maintain the courts would or could uphold it?

Mr. PREYER of North Carolina. Will the gentleman yield?

Mr. WYMAN. I yield to the gentleman.

Mr. PREYER of North Carolina. I do not regard the standard as at all nebulous. It is a standard which is derived from the U.S. Constitution itself and could hardly be unconstitutional. Certainly, we do not regard the Constitution as nebulous. I think these plain English words are understandable. Moreover, the statement of purpose contained in section 2 of the bill sets forth objectives sought to be attained by this standard and serves to clarify it.

In addition, it is a standard which is applicable to both sensitive and nonsensitive positions, and the President is authorized to issue regulations to implement it. You will recall that under the Truman order the standard was reasonable doubt as to an individual's loyalty to the Government. This was never defined and is a much vaguer expression than mine. Yet, it was a workable standard. Moreover, it was upheld in the decisions of the courts testing it.

On the other hand, the standard established under Executive Order 10450—that an individual's employment be clearly consistent with the interests of the national security—appears to me to be not only more vague, but also has the vice of having been construed as not applicable to nonsensitive positions. Hence, if it is a loyalty program you want, it is clear that the standard under Executive Order 10450 must be amended in the light of Cole against Young. I am quite satisfied that the standard established in the bill, H.R. 11120, is both workable and constitutional. See particularly the decision in Law Students against Wadmond.

Of course, in applying any standard much depends upon the training, experience, and wisdom of the administrator. I do not think any bill can legislate wisdom in the administrator. We cure that by the electoral process. However, I do believe that the standards set up in the bill and its requirements are capable of successful and efficient management.

Mr. WYMAN. If the gentleman will answer this additional question, I would appreciate it. Your amendment requires a finding that such person will in good faith support the Constitution of the United States. When? In 1975? In 1980? Under what circumstances and what conditions do you have in mind that good faith support of the Constitution would be tested? Would it be failure to have assurance concerning his good faith intentions which could adversely affect the security of the country at the present time? At some future time? Is the gentleman going to require this of all Federal employees whether or not they are employed in a sensitive or classified position?

Mr. PREYER of North Carolina. The standard is presently applicable. The determination to be made as to the fact whether the individual will support the Constitution in good faith and is a present standard and is to be measured against the individual's past and present conduct. There must be no reasonable doubt that the individual will now, or in the future, support the Constitution. It is both a present fact and a prediction based upon conduct. In this respect it differs from no other standard established under Executive Order 9835, or under Executive Order 10450.

Moreover, it is a standard, as I said, applicable to all appointments, and foreign nationals alone may be excluded by the President. In this respect it is more effective than the present standard under Executive Order 10450 which, as a result of Cole against Young, is now applied only to sensitive positions. Thus, Executive Order 10450 covers only a small minority of Government employees. The standard established in my bill will cover all. Surely this is your desire and the objective of a loyalty standard.

I repeat that it is not a vague standard, for the meaning of the standard is clearly set forth in the Constitution itself in the one oath which has been spelled out and required of the President on taking office. That oath is in the following language:

> I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States.

Thus in section 2 of the bill, the meaning of the phrase "support the Constitution" is described as encompassing loyalty to the Constitution, a disposition to defend and maintain it against all enemies, foreign and domestic, and implies a commitment of fidelity to the duties imposed by it. Hence, I do not think that the standard is nearly so vague and general as the gentleman would imply. We are simply saying that the man will in good faith serve and be loyal to the ends of the organization for which he works.

Mr. ASHBROOK. Will the gentleman yield?

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

Mr. ASHBROOK. I thank the gentleman for yielding.

I ask the gentleman from North Carolina is this is not an accurate statement. I happen to believe H.R. 11120, I will say in response to the question that the gentleman addressed to the gentleman from North Carolina, completely reverses the thrust. Under this bill the employment of the individual has to be clearly consistent with the interests of national security. But under H.R. 11120 there only must be a reasonable doubt that he will support the Constitution in good faith.

So, you completely turn it around. The other one had to be in consonance with national security, but you put the onus on the question of "reasonable doubt."

Mr. WYMAN. I do not know whether the gentleman from North Carolina wants to respond to that question at this time but if he desires to do so, I shall be glad to yield further to him.

Mr. PREYER of North Carolina. I would say that that standard applies only to sensitive positions.

Mr. ASHBROOK. That is right.

Mr. PREYER of North Carolina. It does not apply to nonsensitive positions.

Mr. ASHBROOK. That is what we are talking about. Does it not completely reverse the thrust?

Mr. WYMAN. I would like to observe to the Members that are about to vote on this Preyer amendment, that to substitute such general language for the existing provisions of the Internal Security Act of 1950 and the Executive orders subsequently promulgated, is to worsen the security picture, not strengthen it. It will worsen it from the point of view of Federal employees as well as those who rightfully are concerned that subversive persons shall not hold sensitive positions having access to properly classified secret materials, weapons, formulas or in research and development. As unsatisfactory to some have been the procedures under the Internal Security Act and the so-called Attorney General's list in particular, to require the firing or deny the hiring of persons in Government service because there is a reasonable doubt "that such person will in good faith support the Constitution of the United States" is to compound the difficulty. Such a standard is virtually impossible to enforce. It has a time problem as well as a relevancy problem. Involving, as it undeniably does, a matter of attitude on the part of the employee, it is subject to change overnight so to speak, and the right to make that change is subjective with each affected individual.

The whole thrust of the present system utilizing the old Subversive Activities Control Board whose name will now be changed, is to provide an initiator—in this case the Attorney General, and a Government agency that will act upon a record subject to judicial review and only after notice and hearing. In the old days the Attorney General could add or remove groups from his list without notice and hearing. No longer can this be done.

Yet it is undeniable that beyond the problems of Communist objectives, there may well be groups in this country that have as their purpose and objective the overthrow of the Government or of a subdivision thereof, or the commission of unlawful acts either singly or in concert. Knowing and intentional membership and participation in such activity is and should remain a proper disqualification for sensitive Federal employment.

The present amendment is glaringly deficient and should be defeated.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I rise in opposition to the amendment in the nature of a sub-

stitute. In general, I endorse the arguments advanced by the chairman of the Post Office and Civil Service Committee, Mr. DULSKI, and question the jurisdiction of the Internal Security Committee to deal with the loyalty and security provisions for Federal employees, as contained in the substitute.

In addition, I strongly oppose repealing the Subversive Activities Control Act of 1950 and thereby nullifying nearly a decade of combined effort by the Attorney General, the Subversive Activities Control Board, and the courts in combating Communist conspiracy. I am not convinced that the new bureaucracy to be established by the substitute would be as effective in controlling the spread of communism as is the existing program.

As has been pointed out, the Committee on Post Office and Civil Service for many years has been extensively involved in legislation relating to the security and loyalty of Government employees and applicants for Government positions.

According to Chairman Hampton of the Civil Service Commission, the existing loyalty and security program is adequate, and the existing appeal rights to the Civil Service Commission are sufficient. No new administrative appellant authority is necessary in the limited area of loyalty and security.

I am as sympathetic as any Member to the necessity of maintaining strict loyalty and security in the Federal civil service. If any further legislation in this area is necessary, I feel that it should come from my own Committee on Post Office and Civil Service, which has rightful jurisdiction. I do not believe the matter should be handled as it is here proposed—in a substitute amendment offered on the floor, and which is opposed by most of the agencies of the executive branch, by the Government employee unions, and by the American Legion and the Veterans of Foreign Wars.

I urge the defeat of the substitute amendment.

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

Mr. Chairman, I must say that I share some of the concerns that have been expressed here about the problem of protecting the Government against those who would overthrow it by violent or illegal means.

I also share the doubts expressed by the gentleman from California (Mr. EDWARDS) and some of the other speakers as to the constitutionality as well as the necessity of the bill under consideration, H.R. 9669.

But, addressing myself to the substitute offered by the gentleman from North Carolina (Mr. PREYER), I have some real concerns about the constitutionality of the actual language chosen, and I would like to ask the sponsor of the substitute a couple of questions.

It seems to me that the language that is used, that permits the exclusion of an employee if there is a reasonable ground for doubt as to whether he will support the Constitution, does some tricks with the burden of proof and thereby, it seems to me violates constitutional due process.

If you can take that kind of approach, then you can easily switch the burden of proof under almost any type statute, criminal or civil, because all that the proscution would have to prove would be that there are reasonable grounds to question the loyalty of the individual.

Under this approach, the employee could come in with an overwhelming amount of evidence, but, so long as there was some credible evidence on the other side, it seems to me that under this statutory language the Government would prevail. I would like to ask the gentleman from North Carolina (Mr. PREYER) how he overcomes that objection.

Mr. PREYER of North Carolina. I think it is clear under the bill that the burden of proof, of course, remains on the Government to prove its case. As the gentleman knows, as a lawyer, the burden of going forward with the evidence may shift in the course of the testimony. The burden of proof remains with the Government. It must present substantial evidence. It seems to me, for example, that the Government would show that an employee joined the Communist Party and the burden of proof must be on the Government to show that. But there might be a shifting of the burden of coming forward with evidence to the employee who is the only one who has access to the facts in his head, to rebut the presumption that that raises. If you join an organization you are presumed to know the purposes of that organization. After all, no one forces you to join the Communist Party, that is an act of free will. So that in such a hearing the burden of going forward with the evidence may shift from time to time. But I think that it is clear under this bill that the burden of proof remains solidly on the Government to prove that there is reasonable doubt as to the good faith in which the defendant took the oath under the Constitution.

Mr. SEIBERLING. But is not that the opposite to the normal rule in both civil and criminal cases, that the plaintiff or prosecution bears the burden of proof, and proves its case by a preponderance of the evidence, and is a criminal case beyond all reasonable doubt? Under this bill, the Government is relieved of its burden, it seems to me, and need only introduce enough evidence to raise a reasonable doubt.

Mr. PREYER of North Carolina. Of course, this is not a criminal procedure.

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

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

Mr. ECKHARDT. In addition to the point that the gentleman is making that all that has to be shown by the Government is that there is reasonable doubt for support of the Constitution, if there is substantial evidence on it to support the agency's decision the man can be refused employment. I do not know what substantial evidence is of reasonable doubt of support of the Constitution. I really do not know how you can grapple with those terms in a judicial manner.

Mr. SEIBERLING. I must confess I have the same difficulty even though I commend the gentleman from North Carolina for having made an excellent effort here to try to bring some order out of the chaos in this field, but I suggest that maybe a little further study is desirable on that particular point.

Mr. PREYER of North Carolina. I suggest to the gentleman that while this bill does not attempt to explain reasonable doubt or substantial evidence, those terms have been known and explained for years in our courts of law, and I do not think we need to set out all those aspects in this.

I appreciate the comments of the gentleman about the bill, however. This is a difficult decision. I think all of us need to think about it, and to work toward coming up with an answer to the question.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. PREYER).

The amendment in the nature of a substitute was rejected.

COMMITTEE AMENDMENT

The CHAIRMAN. Pursuant to the rule, the Clerk will now report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, strike out lines 3 through 7, and insert in lieu thereof the following:

"SEC. 2. Under such regulations as he may prescribe, the President is authorized to delegate to the Federal Internal Security Board the function of conducting hearings and making findings, upon petition of the Attorney General or such other persons as the President may empower, with respect to the character of relevant organizations to be designated in furtherance of programs established to ascertain the suitability of individuals on loyalty and security grounds for admission to or retention in the civil service in the executive branch. The provisions of subsections (c) and (d) (1), (2), and (3) of section 13, and section 14 of the Subversive Activities Control Act of 1950, as amended, shall apply to proceedings conducted by the Federal Internal Security Board pursuant to the delegation authorized by this section."

Mr. ICHORD. Mr. Chairman, I rise in support of the amendment, and move its adoption.

Mr. Chairman, as I pointed out in general debate, this committee amendment is for the purpose of settling the question as to whether or not the President has the power to delegate the function of preparing the Attorney General's list to the Subversive Activities Control Board renamed as the Federal Internal Security Board.

The bill, as originally drafted, was very rigid and I think quite inartistic.

Section 2 of the bill states that the provisions of subsections (c) and (d) (1), (2), and (3) of section 13, and section 14 of the Subversive Activities Control Act of 1950, as amended, shall apply to proceedings conducted pursuant to section 12 of Executive Order 10450.

Section 12 is the new amendment delegating the power to the Subversive Activities Control Board.

I say it is very inartistic, because if this is not changed, the bill will have the effect of freezing in the flexibility of the loyalty security program.

It would appear to me that the grant

of the powers under sections 13 and 14 of the Subversive Activities Control Act of 1950 would be entirely contingent upon the language of the Executive order remaining the same. That is, this statute and the grant of power, would be repealed by a change in the Executive order. The advantage of flexibility would be lost.

This is the reason for the committee amendment and I renew my motion for its adoption.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE COMMITTEE AMENDMENT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment to the committee amendment offered by Mr. ECKHARDT: Page 2, lines 11 and 12, after the words "Attorney General", strike out "or such other persons as the President may empower."

Mr. ECKHARDT. Mr. Chairman, I should like to have the Committee carefully consider this amendment.

The amendment will not in any way, I think, affect the major purpose of the committee amendment. But, as the able gentleman from Missouri, who I think knows more about the specifics of this act and its mechanics than anyone on this floor, has explained in the original general debate, the Attorney General plays the role of prosecutor, the initiator of a proceeding which will ultimately result in a quasi-judicial determination—that is a determination by the agency itself.

The Federal Internal Security Board then acting on the Attorney General's petition is required to make a determination of whether or not that organization fits the criteria which are said to constitute it a subversive organization.

We do not ordinarily permit the President to enter into a judicial process. We do not let him appoint an ad hoc Attorney General to prosecute.

Certainly in no State's process do we permit somebody other than the county or the district attorney to become the moving party in a process which leads to judicial determination. But this committee amendment would so do. Keep this in mind: When the amendment states that "the Attorney General may petition, or any other person that the President may empower may petition," it sets the machinery afoot. In my opinion, the Federal Internal Security Board then has no discretion but to proceed. It may ultimately hold that the organization is not subversive, but I think that, once the petition is filed, the Board must proceed just as a court must proceed, though that court need not come out with a decree of guilt.

Let us see what this does. Suppose, for instance—and I should not really think that the President would do this—but suppose that he should appoint Mr. Ehrlichman, for instance, as that person who may institute the process and Mr. Ehrlichman decides that the "Friends of the Soil"—and this is an imaginary organization—is perhaps somewhat subversive in undermining industrial development, or the Forest Preservation Society is subversive in that it will stop trees from getting to the mills. Once this is instituted the agency must act, and great harm may be done to entirely desirable organizations by virtue of the very prosecution itself.

Mr. ICHORD. Mr. Chairman, will the gentleman yield at that point?

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

Mr. ICHORD. Of course, I think the gentleman would have to concede that the Attorney General could possibly bring such an action declaring the Friends of the Soil a subversive organization.

Mr. ECKHARDT. That is true. We had at least one Attorney General in the early 1920's, I think, who rather abused his office in such matters, but I should not raise such a contention against the former Attorney General, though he was very close to the President, or really any Attorney General, except in the most pressing times. There is a dignity to the position. There is a respect for law. There is a tradition behind the Office of the Attorney General that has a more restraining effect than that which would exist with respect to a member of, say, the White House family, or to someone the President appoints ad hoc. I suggest this amendment would improve the bill and would prevent a very bad loophole for activity which might be entirely counter to the major purposes of the bill, and I ask for an "aye" vote.

Mr. ICHORD. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. ICHORD. Mr. Chairman, I reluctantly oppose the amendment offered by the gentleman from Texas (Mr. ECKHARDT). I do not think that the langauge "or such other person as the President may empower" is as dangerous as the gentleman from Texas contends. I would point out that the President of the United States also appoints the Attorney General, and the Attorney General could do these things which the gentleman from Texas fears.

The amendment offered by the gentleman from Texas would be restrictive of the power of the President. I would point out that we are dealing with a loyalty security program operated by the President of the United States under Executive order. At the present time the President of the United States has the authority to appoint anyone to be the prosecuting agent.

The gentleman from Texas and I are in agreement on one point, I think. This is an outstanding improvement over the present situation. We do separate prosecuting function from the judging function. But I think the President of the United States should retain the authority to appoint perhaps a legal officer in one of the other departments for the purpose of prosecuting the proceedings. You are still separating the judging function and the prosecuting function. This would be restrictive of the power of the President.

I have no real strong feelings against the amendment. I feel that the President will use the Attorney General, but I do not think it is necessary to restrict his authority in this respect.

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

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

Mr. ECKHARDT. As the language is now written, will the gentleman concede that the President might appoint such other person from the staff of the Internal Security Board?

Mr. ICHORD. I think that the President could possibly do that, but I believe it would be absurd to think that he would. If he did that, he would be merging the prosecuting function and the judging function as they do under the Attorney General's list.

Mr. ASHBROOK. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will not take the 5 minutes, but I will merely say for the RECORD, from the legislative history, I do have mixed emotions. I am inclined to agree with the gentleman from Texas and his amendment. I do believe that the Chairman is correct. I do not think it is likely that the President would misuse this power, but time and time again we do talk about giving power to the executive branch and later, when it is exercised in a way which does not seem to meet with our favor at some future time, we wonder how this happened. Sometimes this is the way it happens. It starts.

I personally have legislation before the Internal Security Committee and before the House which would give to other individuals or agencies the power to present petitions before the SACB, but personally I would rather effect change by legislation and let the House work its will, than to give this broad power to the President.

I can say for the administration, the administration does not seek this delegation. The Justice Department, while not opposed to this language, does not think it necessary. I can say from what they have told me they do not think it is necessary and contains some potential dangers. I am saying, in effect, I do not believe it hurts anything being in section 2, but insofar as good legislation is concerned and good legislative drafting, I am certainly not averse to taking it out. I basically support the amendment offered by the gentleman from Texas.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. WRIGHT, 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. 9669) to amend the Subversive Activities Control Act of 1950, as amended, pursuant to House Resolution 994, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 226, nays 105, not voting 101, as follows:

[Roll No. 173]

YEAS—226

Abbitt	Fisher	Melcher
Andrews, Ala.	Flood	Michel
Andrews, N. Dak.	Flowers	Miller, Ohio
Archer	Ford, Gerald R.	Mills, Md.
Arends	Fountain	Minish
Ashbrook	Frelinghuysen	Minshall
Aspinall	Fuqua	Mizell
Belcher	Garmatz	Mollohan
Bennett	Gaydos	Morgan
Betts	Goldwater	Murphy, N.Y.
Bevill	Goodling	Myers
Biaggi	Green, Oreg.	Natcher
Blackburn	Gross	Nelsen
Boggs	Grover	O'Konski
Bow	Haley	Passman
Bray	Hall	Patman
Brinkley	Hamilton	Pelly
Brooks	Hammer-schmidt	Pepper
Broomfield	Hanley	Perkins
Brotzman	Hansen, Idaho	Pettis
Brown, Mich.	Harsha	Peyser
Broyhill, Va.	Harvey	Pickle
Buchanan	Hastings	Pike
Burke, Fla.	Hays	Pirnie
Burlison, Mo.	Hébert	Poage
Byrnes, Wis.	Heckler, Mass.	Poff
Byron	Hicks, Mass.	Powell
Cabell	Hillis	Preyer, N.C.
Camp	Hogan	Price, Tex.
Carlson	Horton	Purcell
Carter	Hosmer	Quie
Casey, Tex.	Hull	Quillen
Cederberg	Hunt	Railsback
Chamberlain	Ichord	Randall
Chappell	Jacobs	Rarick
Clancy	Johnson, Calif.	Rhodes
Clark	Johnson, Pa.	Roberts
Cleveland	Jones, Ala.	Robinson, Va.
Collier	Jones, N.C.	Roe
Collins, Tex.	Keith	Rogers
Colmer	Kemp	Rooney, Pa.
Conable	King	Rostenkowski
Conover	Kluczynski	Roush
Coughlin	Kyl	Runnels
Crane	Landgrebe	Ruppe
Daniel, Va.	Latta	Sandman
Davis, Ga.	Lennon	Saylor
Davis, S.C.	Lent	Scherle
Davis, Wis.	McClory	Schneebeli
de la Garza	McClure	Scott
Dellenback	McCollister	Shipley
Denholm	McCulloch	Shoup
Dennis	McDade	Shriver
Dent	McEwen	Sisk
Derwinski	McFall	Skubitz
Devine	McKevitt	Slack
Dickinson	McKinney	Smith, Calif.
Dorn	McMillan	Smith, N.Y.
Downing	Mahon	Snyder
Dulski	Mailliard	Spence
Duncan	Mallary	Staggers
du Pont	Mann	Stanton, J. William
Edmondson	Martin	Steed
Erlenborn	Mathias, Calif.	Steele
Esch	Mayne	Steiger, Ariz.
Steiger, Wis.	Vander Jagt	Wyatt
Stratton	Waggonner	Wydler
Stuckey	Ware	Wylie
Talcott	White	Wyman
Taylor	Whitehurst	Young, Fla.
Teague, Calif.	Whitten	Young, Tex.
Teague, Tex.	Widnall	Zablocki
Terry	Wiggins	Zion
Thompson, Ga.	Williams	Zwach
Thomson, Wis.	Wilson, Bob	
Thone	Wright	

NAYS—105

Abourezk	Edwards, Calif.	Mitchell
Abzug	Eilberg	Monagan
Adams	Fascell	Moorhead
Addabbo	Findley	Mosher
Anderson, Calif.	Foley	Moss
	Forsythe	Murphy, Ill.
Anderson, Ill.	Fraser	Nedzi
Annunzio	Frenzel	Nix
Aspin	Giaimo	Obey
Badillo	Gonzalez	O'Hara
Begich	Grasso	O'Neill
Bergland	Gude	Patten
Biester	Harrington	Podell
Blatnik	Hathaway	Price, Ill.
Boland	Hechler, W. Va.	Rangel
Bolling	Heinz	Rees
Brademas	Hicks, Wash.	Reid
Brasco	Howard	Reuss
Burke, Mass.	Hungate	Riegle
Carey, N.Y.	Karth	Rosenthal
Carney	Kastenmeier	Ryan
Celler	Koch	Schwengel
Chisholm	Leggett	Selberling
Clay	Link	Stanton, James V.
Collins, Ill.	McCloskey	
Conte	McCormack	Sullivan
Conyers	McKay	Symington
Culver	Macdonald, Mass.	Thompson, N.J.
Curlin		Ullman
Danielson	Madden	Van Deerlin
Dellums	Matsunaga	Vanik
Diggs	Mazzoli	Vigorito
Dingell	Meeds	Waldie
Donohue	Metcalfe	Whalen
Dow	Mikva	Wolff
Eckhardt	Mink	Yates

NOT VOTING—101

Abernethy	Fulton	Mills, Ark.
Alexander	Galifianakis	Montgomery
Anderson, Tenn.	Gallagher	Nichols
	Gettys	Pryor, Ark.
Ashley	Gibbons	Pucinski
Baker	Gray	Robison, N.Y.
Baring	Green, Pa.	Rodino
Barrett	Griffin	Roncalio
Bell	Griffiths	Rooney, N.Y.
Bingham	Gubser	Rousselot
Blanton	Hagan	Roy
Brown, Ohio	Halpern	Roybal
Broyhill, N.C.	Hanna	Ruth
Burleson, Tex.	Hansen, Wash.	St Germain
Burton	Hawkins	Sarbanes
Byrne, Pa.	Helstoski	Satterfield
Caffery	Henderson	Scheuer
Clausen, Don H.	Holifield	Schmitz
	Hutchinson	Sebelius
Clawson, Del	Jarman	Sikes
Corman	Jonas	Smith, Iowa
Cotter	Jones, Tenn.	Springer
Daniels, N.J.	Kazen	Stephens
Delaney	Keating	Stokes
Dowdy	Kee	Stubblefield
Drinan	Kuykendall	Tiernan
Dwyer	Kyros	Udall
Edwards, Ala.	Landrum	Veysey
Eshleman	Lloyd	Wampler
Evans, Colo.	Long, La.	Whalley
Evins, Tenn.	Long, Md.	Wilson, Charles H.
Fish	Lujan	
Flynt	McDonald, Mich.	Winn
Ford, William D.		Yatron
	Mathis, Ga.	
Frey	Miller, Calif.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Sikes for, with Mr. Drinan against.

Mr. Evins of Tennessee for, with Mr. Bingham against.

Mr. Hagan for, with Mr. Burton against.

Mr. Nichols for, with Mr. William D. Ford against.

Mr. Baring for, with Mr. Gallagher against.

Mr. Montgomery for, with Mr. Green of Pennsylvania against.

Mr. Gettys for, with Mr. Hawkins against.

Mr. Jarman for, with Mr. Helstoski against.

Mr. Henderson for, with Mr. Roybal against.

Mr. Veysey for, with Mr. Scheuer against.

Mr. Schmitz for, with Mr. Stokes against.

Mr. McDonald of Michigan for, with Mr. Tiernan against.

Mr. Stephens for, with Mr. Charles H. Wilson against.

Mr. Del Clawson for, with Mr. Holifield against.

Mr. Caffery for, with Mr. Cotter against.

Mr. Rousselot for, with Mr. Hanna against.

Mr. Burleson of Texas for, with Mr. Kyros against.

Mr. Kuykendall for, with Mr. St Germain against.

Mr. Mathis of Georgia for, with Mr. Ashley against.

Mr. Gubser for, with Mr. Halpern against

Until further notice:

Mr. Abernethy with Mr. Hutchinson.

Mr. Rodino with Mr. Jonas.

Mr. Fulton of Tennessee with Mr. Keating.

Mr. Rooney of New York with Mr. Baker.

Mr. Blanton with Mr. Eshleman.

Mr. Alexander with Mr. Brown of Ohio.

Mr. Long of Maryland with Mr. Fish.

Mr. Yatron with Mrs. Dwyer.

Mr. Udall with Mr. Edwards of Alabama.

Mr. Stubblefield with Mr. Springer.

Mr. Delaney with Mr. Sebelius.

Mr. Evans of Colorado with Mr. Ruth.

Mr. Pucinski with Mr. Robinson of Virginia.

Mr. Mills of Arkansas with Mr. Lujan.

Mr. Miller of California with Mr. Lloyd.

Mr. Pryor of Arkansas with Mr. Broyhill of North Carolina.

Mr. Smith of Iowa with Mr. Don H. Clausen.

Mr. Sarbanes with Mr. Frey.

Mr. Daniels of New Jersey with Mr. Winn.

Mr. Roncalio with Mr. Wampler.

Mr. Gray with Mr. Whalley.

Mr. Gibbons with Mr. Byrne of Pennsylvania.

Mr. Roy with Mr. Barrett.

Mr. Anderson of Tennessee with Mr. Corman.

Mr. Flynt with Mr. Griffin.

Mr. Galifianakis with Mrs. Griffiths.

Mr. Jones of Tennessee with Mrs. Hansen of Washington.

Mr. Hansen of Idaho with Mr. Kee.

Mr. Landrum with Mr. Long of Louisiana.

Mr. POAGE 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.

GENERAL LEAVE

Mr. ICHORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 9669 and include extraneous matter.

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

There was no objection.

CONFERENCE REPORT ON S. 1736, AMENDING PUBLIC BUILDINGS ACT OF 1959

Mr. WRIGHT (on behalf of Mr. GRAY) filed the following conference report and statement on the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and pro-

tection of public buildings, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92-1097)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, 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 Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Public Buildings Amendments of 1972".

SEC. 2. The Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 601 et seq.), is amended as follows:

(1) strike out in subsection (b) of section 4 the figure "$200,000" and insert the figure "$500,000" in lieu thereof;

(2) strike out in subsection (a) of section 12 the following: "as he determines necessary,";

(3) insert at the end of section 12(c) the following sentence: "In developing plans for such new buildings, the Administrator shall give due consideration to excellence of architecture and design."; and

(4) section 7 is amended to read as follows:

"SEC. 7. (a) In order to insure the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for such buildings, except as provided in section 4, no appropriation shall be made to construct, alter, purchase, or to acquire any building to be used as a public building which involves a total expenditure in excess of $500,000 if such construction, alteration, purchase, or acquisition has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. No appropriation shall be made to lease any space at an average annual rental in excess of $500,000 for use for public purposes if such lease has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. For the purpose of securing consideration for such approval, the Administrator shall transmit to the Congress a prospectus of the proposed facility, including (but not limited to)—

"(1) a brief description of the building to be constructed, altered, purchased, acquired, or the space to be leased under this Act;

"(2) the location of the building or space to be leased and an estimate of the maximum cost to the United States of the facility to be constructed, altered, purchased, acquired, or the space to be leased;

"(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings;

"(4) with respect to any project for the construction, alteration, purchase, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action; and

"(5) a statement of rents and other housing costs currently being paid by the Government for Federal agencies to be housed in the building to be constructed, altered, purchased, acquired, or the space to be leased.

"(b) The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction or alteration costs, as the case may be, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this subsection exceed 10 per centum of such estimated maximum cost.

"(c) In the case of any project approved for construction, alteration, or acquisition by the Committee on Public Works of the Senate and of the House of Representatives, respectively, in accordance with subsection (a) of this section, for which an appropriation has not been made within one year after the date of such approval, either the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives, may rescind, by resolution, its approval of such project at any time thereafter before such an appropriation has been made.

"(d) Nothing in this section shall be construed to prevent the Administrator from entering into emergency leases during any period declared by the President to require such emergency leasing authority, except that no such emergency lease shall be for a period of more than 180 days without approval of a prospectus for such lease in accordance with subsection (a) of this section."

SEC. 3. Subsection (f) of section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490 (f)), is amended to read as follows:

"(f) (1) There is hereby established in the Treasury of the United States on such date as may be determined by the Administrator, a fund into which there shall be deposited the following revenues and collections:

"(A) User charges made pursuant to subsection (j) of this section payable in advance or otherwise.

"(B) Proceeds with respect to building sites authorized to be leased pursuant to subsection (a) of this section.

"(C) Receipts from carriers and others for loss of, or damage to, property belonging to the fund.

"(2) Moneys deposited into the fund shall be available for expenditure for real property management and related activities in such amounts as are specified in annual appropriations Acts without regard to fiscal year limitations.

"(3) There are hereby merged with the fund established under this subsection, unexpended balances of (A) the Buildings Management Fund (including any surplus therein), established pursuant to this subsection prior to its amendment by the Public Buildings Amendments of 1972; (B) the Construction Services Fund, created by section 9 of the Act of June 14, 1946 (60 Stat. 259), as amended; and (C) any funds appropriated to General Services Administration under the headings 'Repair and Improvement of Public Buildings', 'Construction, Public Buildings Projects', 'Sites and Expenses, Public Buildings Projects', 'Construction, Federal Office Building Numbered 7, Washington, District of Columbia', and 'Additional Court Facilities', in any appropriation Acts for the years prior to the fiscal year in which the fund becomes operational. The fund shall assume all the liabilities, obligations, and commitments of the said (1) Buildings Management Fund, (2) Construction Services Fund, and (3) the appropriations specified in (C) hereof.

"(4) There is authorized to be appropriated to the fund for the fiscal year in which the fund becomes operational, and for the succeeding fiscal year, such advances to the fund as may be necessary to carry out its purposes. Such advances shall be repaid within 30 years, with interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the average maturities of such advances adjusted to the nearest one-eighth of 1 per centum.

"(5) In any fiscal year there may be deposited to miscellaneous receipts in the Treasury of the United States such amount as may be specified in appropriation Acts.

"(6) Nothing in this section shall preclude the Administrator from providing special services not included in the standard level user charge on a reimbursable basis and such reimbursements may be credited to the fund established under this subsection."

SEC. 4. Section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), is amended by adding two new subsections reading as follows:

"(j) The Administrator is authorized and directed to charge anyone furnished services, space, quarters, maintenance, repair, or other facilities (hereinafter referred to as space and services), at rates to be determined by the Administrator from time to time and provided for in regulations issued by him. Such rates and charges shall approximate commercial charges for comparable space and services, except that with respect to those buildings for which the Administrator of General Services is responsible for alterations only (as the term 'alter' is defined in section 13(5) of the Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 612(5)), the rates charged the occupant for such services shall be fixed by the Administrator so as to recover only the approximate applicable cost incurred by him in providing such alterations. The Administrator may exempt anyone from the charges required by this subsection if he determines that such charges would be infeasible or impractical. To the extent any such exemption is granted, appropriations to the General Services Administration are authorized to reimburse the fund for any loss of revenue.

"(k) Any executive agency, other than the General Services Administration, which provides to anyone space and services set forth in subsection (j) of this section, is authorized to charge the occupant for such space and services at rates approved by the Administrator. Moneys derived by such executive agency from such rates or fees shall be credited to the appropriation or fund initially charged for providing the service, except that amounts which are in excess of actual operating and maintenance costs of providing the service shall be credited to miscellaneous receipts unless otherwise authorized by law."

SEC. 5. (a) Whenever the Administrator of General Services determines that the best interests of the United States will be served by taking action hereunder, he is authorized to provide space by entering into purchase contracts, the terms of which shall not be more than thirty years and which shall provide in each case that title to the property shall vest in the United States at or before the expiration of the contract term and upon fulfillment of the terms and conditions stipulated in each of such purchase contracts. Such terms and conditions shall include provision for the application to the purchase price agreed upon therein of installment payments made thereunder. Each purchase contract authorized by this section shall be entered into pursuant to the provisions of title III of the Federal Property and Administrative Services Act of 1949, as amended. If any such contract is negotiated, the determination and findings supporting such negotiation shall be promptly reported in writing to the Committees on Public Works of the Senate and House of Representatives. Pro-

posals for purchase contracts shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the facility to be procured.

(b) Each such purchase contract shall include such provisions as the Administrator of General Services, in his discretion, shall deem to be in the best interest of the United States and appropriate to secure the performance of the obligations imposed upon the party or parties that shall enter into such agreement with the United States. No such purchase contract shall provide for any payments to be made by the United States in excess of the amount necessary, as determined by the Administrator, to—

(1) amortize the cost of construction of improvements to be constructed plus the fair market value, on the date of the agreement, of the site, if not owned by the United States; and

(2) provide a reasonable rate of interest on the outstanding principal as determined under paragraph (1) above; and

(3) reimburse the contractor for the cost of any other obligations required of him under the contract, including (but not limited to) payment of taxes, costs of carrying appropriate insurance, and costs of repair and maintenance if so required of the contractor.

(c) Funds available on the date of enactment of this subsection for the payment of rent and related charges for premises, whether appropriated directly to the General Services Administration or to any other agency of the Government and received by said Administration for such purpose, may be utilized by the Administrator of General Services to make payments becoming due from time to time from the United States as current charges in connection with agreements entered into under authority of this section.

(d) With respect to any interest in real property acquired under the provisions of this section, the same shall be subject to State and local taxes until title to the same shall pass to the Government of the United States.

(e) For the purpose of purchase contracts provided for in this section for the erection by the contractor of buildings and improvements for the use of the United States, the Administrator is authorized to enter into agreements with any person, copartnership, corporation, or other public or private entity, to effectuate any of the purposes of this section; and is further authorized to bring about the development and improvement of any land owned by the United States and under the control of the General Services Administration including the demolition of obsolete and outmoded structures situated thereon, by providing for the construction thereon by others of such structures and facilities as shall be the subject of the applicable purchase contracts, and by making available such plans and specifications for the construction of a public building thereon as the Government may possess. Projects heretofore approved pursuant to the provisions of the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.), may be constructed under authority of this section without further approval, and the prospectuses submitted to obtain such approval shall for all purposes, be considered as prospectuses for the purchase of space, except that any such project shall be subject to the requirements of section 7(b) of the Public Buildings Act of 1959, as amended, based upon an estimated maximum cost increased by not more than an average of 10 per centum per year, exclusive of financing or other costs attributable to the use of the method of construction authorized by this section.

(f) Except for previously approved prospectuses referred to in (e) above, no purchase contract shall be entered into pursuant to the authority of this section until a prospectus therefor has been submitted and approved in accordance with section 7 of the Public Buildings Act of 1959, as amended.

(g) No purchase contract shall be entered into under the authority granted under this section after the end of the third fiscal year which begins after the date of enactment of this section.

(h) No space shall be provided pursuant to this section until after the expiration of 30 days from the date upon which the Administrator of General Services notifies the Committees on Appropriations of the Senate and House of Representatives of his determination that the best interests of the Federal Government will be served by providing such space by entering into a purchase contract therefor.

SEC. 6. (a) The Postmaster General of the United States Postal Service shall convey to the city of Carbondale, Illinois, all right, title, and interest of the United States and such Postal Service, in and to the real property (including any improvements thereon) in Carbondale, Illinois, bounded by old West Main Street on the south, Glenview Drive on the west Illinois Route 13 and access road to Murdale Shopping Center on the north, and by Texaco Service Station and residences on the north, approximately 308 feet on the east, 525 feet on the south, 420 feet on the west and with an irregular boundary on the north, a total area of approximately 191,100 square feet. The exact legal description of the property shall be determined by the Postmaster General, without cost to the city of Carbondale, Illinois. Such conveyance shall be made without payment of monetary consideration and on condition that such property shall be used solely for public park purposes, and if it ever ceases to be used for such purpose, the title thereto shall revert to the United States which shall have the right of immediate reentry thereon.

(b)(1) The United States Postal Service shall grant to the City of New York, without reimbursement, air rights for public housing purposes above the postal facility to be constructed on the real property bounded by Twenty-eighth and Twenty-ninth Streets, Ninth and Tenth Avenues, in the City of New York (the Morgan Annex site), such facility to be designed and constructed in such manner as to permit the building by the City of New York of a high-rise residential tower thereon, *Provided*, That—

(A) the City of New York shall grant to the Postal Service without reimbursement exclusive use of Twenty-ninth Street between Ninth and Tenth Avenues in the City of New York, such use to be irrevocable unless the Postal Service sells, leases, or otherwise disposes of the Morgan Annex site; and

(B) the City of New York shall agree to reimburse the Postal Service for the additional cost of designing and constructing the foundations of its facility so as to render them capable of supporting a residential tower above the facility, and shall issue any permits, licenses, easements and other authorizations which may be necessary or incident to the construction of the postal facility.

(2) If within twenty-four months after the City of New York has complied with the provisions of paragraphs (A) and (B) of subsection (d)(1) of this section, the United States Postal Service has not awarded a contract for the construction of its facility, the Postal Service shall convey to the City of New York, at the fair market value, all right, title and interest in and to the above-described real property. Such conveyance shall be made on the condition that such property shall be used solely for public housing purposes, and if public housing is not constructed on the property within five years after title is conveyed to the City of New York or if thereafter the property ever ceases to be used for such purposes, title thereto shall revert to the Postal Service, which shall have the right of immediate reentry thereon.

SEC. 7. To carry out the provisions of the Public Buildings Amendments of 1972, the Administrator of General Services shall issue such regulations as he deems necessary. Such regulations shall be coordinated with the Office of Management and Budget, and the rates established by the Administrator of General Services pursuant to sections 210(j) and 210(k) of the Federal Property and Administrative Services Act of 1949, as amended, shall be approved by the Director of the Office of Management and Budget.

SEC. 8. (a) Notwithstanding any other provision of law, the House Office Building Commission is authorized (1) to use, to such extent as it may deem necessary, for the purpose of providing office and other accommodations for the House of Representatives, the building, known as the Congressional Hotel, acquired by the Government in 1957 as part of Lot 20 in Square 692 in the District of Columbia under authority of the Additional House Office Building Act of 1955 and (2) to direct the Architect of the Capitol to lease, at fair market value, for such other use and under such terms and conditions and to such parties as such Commission may authorize, any space in such building not required for the aforesaid purpose.

(b) Any space in such building used for office and other accommodations for the House of Representatives shall be deemed to be a part of the "House Office Buildings" and, as such, shall be subject to the laws, rules, and regulations applicable to those buildings.

SEC. 9. Section 8 of the John F. Kennedy Center Act, as amended (72 Stat. 1969), is amended by inserting "(a)" immediately after "SEC. 8" and by adding at the end thereof the following new subsection:

"(b) There is hereby authorized to be appropriated to the Board not to exceed $1,500,000 for the fiscal year ending June 30, 1972, for the public costs of maintaining and operating the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts."

SEC. 10. Section 6 of the John F. Kennedy Center Act, as amended (72 Stat. 1968), is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of the Interior, acting through the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1973, to the Secretary of the Interior such sums as may be necessary for carrying out this subsection."

SEC. 11. This Act shall become effective upon enactment. The effective date of applying the rates to be charged pursuant to the regulations to be issued under subsections (j) and (k) of section 210 of the Federal Property and Administrative Services Act of 1949, as amended, shall be as determined by the Administrator of General Services but in any event shall not be later than the beginning of the third full fiscal year subsequent to the enactment thereof.

And the House agree to the same.

KEN GRAY,
JOHN C. KLUCZYNSKI,
JIM WRIGHT,
WILLIAM H. HARSHA,
JAMES R. GROVER, Jr.,
Managers on the Part of the House.

MIKE GRAVEL,
JOHN TUNNEY,
J. CALEB BOGGS,
JOHN SHERMAN COOPER,
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 House to the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, 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 House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

With respect to the amendment of the House to the text of the Senate bill, the Senate recedes from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment. The differences between the Senate bill, the House 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

The Senate bill, the House amendment and the conference substitute all have the short title "Public Buildings Amendments of 1972".

SECTION 2

Senate bill

This section increases from $200,000 to $500,000 the maximum cost of any alteration to or acquisition of a public building which may be undertaken by the General Services Administration in the absence of an authorization from the Committees on Public Works of the Senate and House of Representatives.

G.S.A. must receive authorization from the Committees on Public Works before it may construct or acquire any public building involving an expenditure in excess of $100,000, or alter any public building involving an expenditure in excess of $200,000. This has increased those limitations to $500,000 each.

Under section 7(a)(2) of the Public Buildings Act of 1959, whenever the Administrator of General Services transmits to the Congress a prospectus for a proposed project, that prospectus must include "an estimate of the maximum cost of the project." This subsection strikes the word, "maximum,".

This section also repeals sections 7(c) and 7(d) of the Public Buildings Act of 1959.

This section strikes the words, "as he determines necessary" from section 12(a) of the Public Buildings Act of 1959, which authorizes and directs the Administrator of General Services, "as he determines necessary, to submit to Congress prospectuses of proposed projects in accordance with section 7(a) of this Act."

This section amends section 12(c) of the Public Buildings Act of 1959 by providing that the Administrator of General Services shall give due consideration to excellence of architecture and design in developing plans for future public buildings.

House amendment

This section is the same as the Senate bill in increasing to $500,000 the maximum cost of any alteration to or acquisition of a public building which may be undertaken by G.S.A. without specific authority from the Committees on Public Works.

This section strikes out "as he determines necessary" from section 12(a) of the Public Buildings Act of 1959 which requires the Administrator of G.S.A. to submit to Congress prospectuses of proposed projects "as he determines necessary".

This section amends section 12(c) of the Public Buildings Act of 1959 by providing that the Administrator of G.S.A. shall give due consideration to excellence of architecture and design in developing plans for future public buildings.

This section amends section 7 of the Public Buildings Act of 1959 to require the Administrator of G.S.A. to submit a prospectus for approval by the House and Senate Public Works Committees whenever he proposes to secure leased space for which he proposes an average annual rental in excess of $500,000.

Conference substitute

The conference substitute is the same as the House amendment except that the Administrator is authorized to enter into emergency leases for not to exceed 180 days during any period when the President declares that such authorization is needed. No emergency lease could be for a longer period without approval of the Committees.

In the letting of contracts for purchase contract construction, it is the intent of the conferees that the General Services Administration retain ownership of architectural and engineering designs and plans developed for such facilities prior to enactment of this Act.

Further, the conferees recognize that additional design and engineering work may be necessary on some of the projects that will be constructed under a purchase contract arrangement. The GSA should make every effort to contract for such work with the original architect or engineer. GSA should also make every reasonable effort to contract directly for such services with the architect or engineer, rather than directing that the contractor make such arrangements. The conferees believe this is essential, whenever possible, to avoid a situation in which an architectural or engineering firm may face a conflict of interest between the Federal Government and the contractor.

SECTION 3

Senate bill

This section amends section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

It establishes in the Treasury a fund for financing real property management and related activities including but not limited to the acquisition, construction, alteration, maintenance, operation, and protection of public buildings. Into this fund are deposited: user charges from eligible departments and agencies equivalent to the commercial value of the office space which they occupy; proceeds with respect to building sites authorized to be leased pursuant to section 210(a) of the Federal Property and Administrative Services Act; and receipts from carriers and others for loss of, or damage to, property belonging to the fund.

It also provides that moneys deposited into the fund shall be available for expenditure in such amounts and for such purposes as are specified in annual appropriation Acts. Authorizations for capital expenditures, however, may be made without regard to fiscal year limitations.

This section lists certain appropriations presently made to G.S.A. which are to be merged into the new buildings fund, together with their liabilities, obligations, and commitments, authorizes advances to be appropriated into the fund, repayable with interest within 30 years, and provides that in any fiscal year, there may be deposited to miscellaneous receipts such amounts as are specified in the annual budget estimates for the fund.

Finally this section enables G.S.A. to provide special services to agencies not included in the standard level user charge on a reimbursable basis, with reimbursements to be credited to the fund.

House amendment

Except for minor technical clerical and clarifying amendments the House amendment is the same as the Senate bill excluding authorization for advances to the fund.

Conference substitute

This is the same as the House amendment including, however, an authorization for advances to the fund during the first two years of its operation.

SECTION 4

Senate bill

This section amends section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490) by adding to it three new subsections.

New subsection (j) authorizes the Administrator of General Services to charge eligible agencies for furnished services, space, quarters, maintenance, repairs, or other facilities at rates determined by him. These rates shall approximate commercial charges for comparable space and services. However, in the case of those buildings for which the Administrator is responsible for alterations only, the rates charged shall be sufficient to recover only the applicable cost of the alteration. Agencies and their activities may be exempted from the G.S.A. rates by the President.

This subsection also authorizes the Administrator to alter Federal buildings.

In addition, this subsection authorizes the Administrator to maintain, operate, and protect Federal buildings and sites and to provide related services, including demolition and improvement with respect to sites authorized to be leased pursuant to section 210(a) of the Federal Property and Administrative Services Act of 1949, authorizes the G.S.A. to rent space in buildings in the District of Columbia, and authorizes the Administrator to provide, on private or other property not in government control, fencing, lighting, guard booths, and other facilities which are appropriate to enable the United States Secret Service to perform its protective functions.

New subsection (k) provides that any Executive agency, other than G.S.A., which provides space and services to other agencies, may do so at rates approved by the Administrator of General Services.

New subsection (l) contains definitions.

House amendment

The House provision authorizes and directs the Administrator to charge for services, space, quarters, maintenance, repairs, or other facilities at rates which he determines in regulations which rates are to approximate commercial charges for comparable space and services. In the case of buildings for which the Administrator is responsible for alterations only, the rates charged shall be fixed so that to recover only the approximate applicable cost incurred in providing the alterations. The Administrator may exempt anyone from these charges. If exemptions are granted, appropriations are authorized to reimburse the fund for the lost revenue. In addition, authorization is provided to executive agencies providing space or services to other persons to charge them at rates approved by the Administrator and the Director of O.M.B.

Conference substitute

The conference substitute is the same as the House amendment except that the Administrator's right to exempt anyone from charges is contingent upon his determination that these charges would be infeasible or impractical in that particular case. The requirement that the Director of O.M.B. approve rates to be charged for executive agencies other than G.S.A. is removed from this provision and placed instead in section 7 of the legislation.

SECTION 5

Senate bill

This section amends the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.) by adding a new section 4 and renumbering the existing section 4 and subsequent sections appropriately.

This section enables the Administrator of General Services to enter into purchase contracts with terms of between 10 and 30 years. Each such contract must provide that title to the property vests in the United States. Installment payments by the United States are applied to the purchase price.

It also authorizes the Administrator to require security from those entering into purchase contracts with the United States. No purchase contract may be entered into which provides for payments by the United States in excess of the amount necessary, as determined by the Administrator, to: (1) amortize the cost of improvements to be constructed, plus the fair market value, on the date of the agreement, of the site, if owned or acquired by the contractor; (2) provide a reasonable rate of interest on the outstanding principal; and (3) reimburse the contractor for the cost of any other obligations assumed by him under the contract, including the payment of taxes, costs of insurance, and costs of repair and maintenance.

This section authorizes the use of monies from the buildings fund and other direct appropriations to G.S.A. for the installment payments on purchase contracts.

In the case of all purchase contracts, real property remains subject to state and local taxation until its title vests in the United States.

The Administrator is also authorized to enter into agreements to effectuate the purposes of this section, and to bring about the development and improvement of any land owned by the United States and under control of G.S.A. In the case of projects which have received prior authorization by the Committees on Public Works, which have not changed substantially in scope, and which have not increased in construction cost by more than an average of 10 percent per year since the authorization, no new approval is needed from the committees before a purchase contract may be entered into.

Except for the previously noted projects, no purchase contract shall be entered into until the Committees on Public Works have approved individual prospectuses for such projects.

Finally the section limits the purchase contract authority of G.S.A. to three years.

House amendment

The House provision is not an amendment to the Public Buildings Act of 1959 but a free standing authority. The purchase contract authority would permit G.S.A. to make regular payments over a period not to exceed 30 years to persons who would finance and construct buildings to G.S.A. specifications. At or before the end of the contract term, title to the building would vest in the United States. Each purchase contract would be entered into in accordance with title III of the Federal Property and Administrative Services Act of 1949. The determinations and findings supporting negotiated contracts are to be promptly reported to the committees. Proposals for purchase contracts are to be solicited from the maximum number of qualified sources. The remaining provisions in the House amendment, except for technical and clarifying changes, are the same as those of the Senate bill with regard to purchase contracts, including authorization to construct by this method projects heretofore approved under the Public Buildings Act of 1959 without further approval.

This provision of the House amendment was modified on the floor of the House by the adoption of a new subsection (h) prohibiting purchase contracts until they have been authorized by resolutions adopted by the Committees on Appropriations of the Senate and House, respectively.

Conference substitute

The conference substitute is the same as the provision of the House amendment except for a clarifying amendment adopted to subsection (f) removing certain superfluous language and the adoption of a substitute subsection (h) which would prevent space being provided by lease purchase until the Committees on Appropriations had been notified by G.S.A. of the intention to do so in each instance and 30 days had passed from the date of such notification.

SECTION 6

Senate bill

This section authorizes the Administrator of G.S.A. to issue such regulations as he deems necessary to carry out this Act.

House amendment

This is the same as the Senate bill with the additional requirements that regulations be coordinated with O.M.B. and rates established under section 210(j) by the Administrator be subject to approval by the Director of O.M.B.

Conference substitute

This is the same as the House amendment except that rates under 210(k) are also subject to the requirement of approval by O.M.B.

SECTION 7

Senate bill

This section specifies that funds available to any eligible agency may be used to pay user charges established under section 210(j) and (k) of the Federal Property and Administrative Services Act of 1949.

House amendment

No comparable provision.

Conference substitute

No comparable provision.

SECTION 8

Senate bill

This section is intended to insure that the General Services Administration adheres to all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Under this section, the Administrator of General Services must file a statement with the Secretary of the Department of Housing and Urban Development and with the Administrator of the Small Business Administration, detailing the number of residential and small business units to be demolished or removed by a given project, and how the G.S.A. intends to comply with the above Act. The Secretary of Housing and Urban Development and the Administrator of the Small Business Administration, in turn, are required to certify that the measures to be undertaken by G.S.A. are consistent with the requirements of the Act.

House amendment

No comparable provision.

Conference substitute

No comparable provision.

SECTION 9

Senate bill

This section fixes the effective date of the legislation at no later than the beginning of the third full fiscal year following its enactment.

House amendment

Same as the Senate bill.

Conference substitute

Same as both Senate bill and House amendment.

SPECIFIED PROPERTY

Senate bill

No comparable provision.

House amendment

Section 6 of the House amendment authorizes and directs the Postmaster General to convey without monetary consideration to the city of Carbondale, Illinois, certain specified property on condition that it be used solely for public park services. In addition, the Postal Service is required to grant to the city of New York air rights above a postal facility to be constructed in that city upon compliance with certain conditions relating to the use of the adjoining street and the payment of costs of construction necessary to support public housing above the proposed postal facility. If the Postal Service fails to award a contract for construction within two years after the city has complied with the requirements then the Postal Service is required to convey at fair market value all of the real property. This conveyance is to be on condition that the property be used for public housing purposes and if public housing is not constructed on the site within five years after passage of title to the city or if the property ever ceases to be used for that purpose, title reverts to the Postal Service.

Conference substitute

Same as the House amendment.

OTHER PROPERTIES

Senate bill

No comparable provision.

House amendment

Section 8 of the House amendment authorizes the House Office Building Commission to use for the purpose of providing office and other accommodations for the House of Representatives, the Congressional Hotel (presently Federal property) and directs the Architect of the Capitol to lease, under the direction of the Commission, space in the building not required for those purposes. Space in the building used for offices and accommodations for the House of Representatives is to be deemed to be part of the House office buildings for the purpose of laws, rules, and regulations applicable thereto.

Conference substitute

Same as the House amendment.

KENNEDY CENTER

Senate bill

No comparable provision.

House amendment

Sections 9 and 10 of the House amendment authorized appropriations to the Board of Directors of the Kennedy Center of not to exceed $1.5 million for fiscal year 1972 to finance that part of the building's operation, maintenance, and protection costs which are related to the nonperforming arts functions of the Center. In addition, the Secretary of the Interior acting through the National Park Service is required to provide maintenance, security, information, interpretation, janitorial, and all other services necessary to the nonperforming arts functions of the Kennedy Center and appropriations are authorized for fiscal year 1973 for this purpose.

Conference substitute

Same as the House amendment.

In section 10 of the bill, the authority provided to the National Park Service by the words "information" and "interpretation" was discussed by the Conference Committee, as the words are not defined and as the interpretations of the National Park Service and of the Kennedy Center on this point appear to differ.

The managers on the part of the House and Senate agreed that section 10 does not confer exclusive responsibility on the National Park Service for providing information and interpretation services at the John F. Kennedy Center for the Performing Arts, and in no way does it give authority to the National Park Service over the Friends of the Kennedy Center or place the Friends under the direction of the Park Service. The role of the Friends of the Kennedy Center with respect to interpretation and information services at the Kennedy Center shall be

determined by agreement between the Board of Trustees and the National Park Service.

KEN GRAY,
JOHN C. KLUCZYNSKI,
JIM WRIGHT,
WILLIAM H. HARSHA,
JAMES R. GROVER, JR.,
Managers on the Part of the House.
MIKE GRAVEL,
JOHN TUNNEY,
J. CALEB BOGGS,
JOHN SHERMAN COOPER,
Managers on the Part of the Senate.

BANKS REAP HUGE SUBSIDY FROM TAX AND LOAN ACCOUNTS

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

Mr. PATMAN. Mr. Speaker, the big commercial banks of this Nation are reaping a bonanza by retaining billions of dollars in Federal tax payments.

Through the benevolence of the U.S. Treasury Department, nearly $6 billion of income tax funds and related payments were in interest-free tax and loan accounts in commercial banks across the United States in mid-February. These deposits of public funds—paid in by the average taxpayer—represent one of the largest single business subsidies provided by the Federal Government.

Mr. Speaker, these statements are substantiated by a study which the Banking and Currency Committee released today concerning the tax and loan account balances in 12,838 commercial banks. As my colleagues know, the phrase, "tax and loan accounts," is used to describe funds belonging to the U.S. Treasury which are deposited in demand accounts in private commercial banks.

These funds come from several sources, including payments for Government securities purchased by the bank—either for its customers or its own accounts; from payments of various taxes such as employee withholding income taxes, payroll taxes from the old-age insurance program, railroad retirement taxes, certain excise taxes, and corporate taxes. These deposits in the commercial banks have ranged as high as $11 billion in recent years.

Mr. Speaker, the banks repaid untold millions in added profits from the deposits which they are free to invest any way they see fit under the law.

The money is subject only to periodic withdrawal from the accounts by the Treasury Department and most banks—particularly the big money center banks—are able to estimate with great precision the average balances that can be expected from the tax and loan accounts during any year.

At present, 102 of the Nation's nearly 14,000 commercial banks hold 44 percent of the Treasury's tax and loan accounts. The 50 largest banks hold more than one-third of all such deposits. The greatest concentration of the funds is in New York City where eight banks control 12½ percent of the Nation's tax and loan funds.

Mr. Speaker, it is ironic that the very commercial banks which have sought Federal subsidies and guarantees for loans to such corporations as Penn Central and Lockheed Aircraft Corp. are holding millions of dollars of interest-free tax money.

For example, Mr. Speaker, the banks which sought—and received—the guarantee from the Federal Government on Lockheed, had $1.4 billion of Federal tax and loan accounts as of mid-February of this year. In other words, these banks had Federal funds six or seven times the amount of the guarantee that they were seeking from the American taxpayer.

Once again, this situation makes it appear that the Lockheed loan was much more of a bailout and a bonanza for the banks than it was assistance to the Lockheed Aircraft Corp. or its workers. I regret greatly that the Treasury Department did not reveal these huge tax and loan account balances at the time they were up here lobbying for the Lockheed guarantees. This might well have placed a different color on the entire transaction.

Mr. Speaker, here is a list of the Lockheed banks and their tax and loan accounts:

Lockheed banks and their tax and loan accounts

	Million
Bankers Trust Company	$71.6
Bank of America	149.7
Bank of California	19.4
Chase Manhattan	177.3
Chemical Bank	102.5
Citizens & Southern Nat'l Bank (Atlanta)	15.2
Continental Illinois National Bank	63.7
Crocker National Bank (San Francisco)	33.2
FNB of Atlanta (First Nat'l Bank)	9.0
FNB of Boston (First Nat'l Bank)	38.7
FNCB (First National City Bank—New York City)	139.5
Fulton Nat'l Bank (Atlanta, Ga.)	13.0
Girard Trust Bank	18.3
Irving Trust Company	51.1
Mfrs. Hanover Trust Company	87.2
Mellon National Bank	66.7
Morgan Guaranty Company	75.2
Pacific Nat'l Bank of Washington	13.0
Philadelphia National Bank	38.2
Security Pacific Nat'l Bank (Los Angeles)	109.9
Trust Company of Georgia	10.2
UCB (United California Bank)	55.6
Wells Fargo Bank	46.9
Total	1,405.1

The system is discriminatory against the smaller banks of the Nation and the study shows a prima facie case of gross favoritism for the large banking institutions. It is even more discriminatory toward credit unions, savings and loan associations, and mutual savings banks who receive none of this Federal largesse.

Since the great majority of the tax and loan funds come from withholding for income tax purposes, the system is also highly discriminatory against the average wage earner. Most people are willing to pay their taxes in advance through withholding in the belief that their Government needs the funds, but, in truth, these payments do not go directly to the Treasury but into deposits in the commercial banks. So the withholding system provides a massive welfare program for commercial banks.

Mr. Speaker, the study shows a need for the Federal Government to take one of two steps regarding the handling of the tax and loan accounts:

First. Require the payment of interest to the Treasury Department, or

Second. Require the use of the Tax and Loan Accounts as a "carrot" to encourage banks to make more loans available for small business, housing, environmental quality projects, and other activities which would help provide jobs and meet national economic and social goals.

The Treasury Department, led by Under Secretary Charls Walker, has exhibited a plodding and unimaginative approach to the utilization of the tax and loan funds.

These billions of dollars of tax funds could provide a tremendous incentive to move credit into areas of greatest need, and it is tragic that we have a Treasury Department which spends all of its time finding excuses for not prodding and encouraging the commercial banking industry into a better allocation of credit. The Treasury's attitude—and the figures compiled in the committee study—lend credence to the belief that these funds remain as an interest-free subsidy to the banks and that they are allocated, at least in part, on the basis of political favoritism.

Mr. Speaker, I have asked the committtee staff to investigate Treasury Department claims that the money remains interest-free in return for various services that commercial banks perform for the Federal Government.

In the past, the Treasury has listed such things as issuing and payment of savings bonds, purchasing of Government securities, cashing Government checks, and procuring and distributing Federal income tax forms to the public as "services" provided free for the Federal Government.

The staff study establishes that virtually all of these activities are provided as a normal run of customer services which are used by the commercial banks to help attract and keep depositors. These are services being provided for the depositor and not for the Federal Government.

In many cases, commercial banks are refusing to cash Government checks except for their depositors and some banks are requiring a service charge for the purchase of Government securities by smaller investors.

In addition, some banks are charging the Federal Government for basic banking services despite the fact that they are beneficiaries of huge tax and loan accounts. For instance, Chase Manhattan had a tax and loan balance of $177.3 million in February and, at the same time, was charging the Treasury Department $4 million annually for operating banking facilities at military installations in the United States and overseas.

It is a myth that commercial banks are providing any real service in return for this huge subsidy bonanza.

Mr. Speaker, the committee has already launched a second study concerning various "time deposits" maintained by various governmental agencies in banks around the Nation. These funds are also interest-free and the committee wants to determine both the level and the allocation of these funds.

The sad use of public deposits is one more evidence of the misallocation of

credit in the commercial banking system.

The lack of public interest direction in the deposit of public funds must be viewed alongside of the Federal Reserve System's traditional resistance to the use of monetary mechanisms to allocate funds to credit-starved sectors of the economy. It is no wonder that our cities and rural areas have such a backlog of public needs in view of the joint Treasury-Federal Reserve foot dragging about allocation of credit.

JAMES FRAZER HILLMAN

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

Mr. MOORHEAD. Mr. Speaker, I rise in sorrow today to advise the House of the death of one of Pittsburgh's leading citizens. James Frazer Hillman, pioneer conservationist, dedicated philanthropist and prominent Pittsburgh coal operator, died on May 26 in the Presbyterian University Hospital at the age of 83. I knew Mr. Hillman all my life and there is no man for whom I had greater admiration or deeper affection. It was James F. Hillman who developed my interest in conservation and I had the honor of serving with him on the boards of the Pittsburgh Park and Playground Society and the Western Pennsylvania Conservancy.

This Nation and my community have suffered a great loss.

To Mrs. Hillman, his four children, his grandchildren and great grandchildren my wife and I extend our deepest sympathy.

I include with my remarks articles from the Pittsburgh Post Gazette, the Pittsburgh Press, the New York Times, and the Washington Post on the subject of James F. Hillman:

PHILANTHROPIST JAMES HILLMAN DIES

PITTSBURGH.—James Frazer Hillman, a prominent area coal operator and philanthropist, died Friday in Presbyterian-University Hospital. He was 83.

Mr. Hillman, as president of Harmon Creek Coal Corp., which had extensive strip mining operations west of the city, voluntarily began the restoration of the strip mines to productive land years before state laws were passed in 1945 requiring land restoration.

A native of Pittsburgh, Mr. Hillman donated funds and large tracts of land for park development in Pittsburgh and Allegheny County. He also developed forests, a park, lake and swimming pool for the residents of northwest Washington County, where he operated several mines.

In January, 1969, Hillman donated 3,654 acres in Hanover Township, Washington County, to the state as a park, and 2,975 acres for public hunting land in the same area.

Mr. Hillman had his employees stockpile top soil when mining, then after the strip excavation had been restored to contour, the top soil was replaced. Within two years there would be no evidence that the land had been used for strip mining.

His firm planted 20,000 to 30,000 trees annually on the restored land. And in some instances grass was planted.

The World War I veteran spearheaded a drive in 1948 to beautify the city, and subsequently conceived the Mayor's Committee for a Cleaner City, of which he was chairman.

Mr. Hillman was a member of the board of trustees of Carnegie Institute. He had also been president of the board at Shadyside Hospital; a member of the City of Pittsburgh's Sinking Fund Commission; on the board of directors of the Pittsburgh Bicentennial Association; emeritus trustee of the Dollar Savings Bank; charter member of the Bibliophile Society; and a member of the Civic Light Opera advisory board, Pittsburgh Playhouse board and the Pittsburgh History and Landmark society.

Funeral services were scheduled for Sunday at Calvary Episcopal Church, with interment following at Homewood Cemetery.

Mr. Hillman is survived by his widow, the former Marguerite Wright, of Augusta, Ga., four daughters, 15 grandchildren and two great grandchildren.

CONSERVATION PIONEER JAMES F. HILLMAN, PHILANTHROPIST, DIES

James Frazer Hillman, prominent Pittsburgh area coal operator, philanthropist and pioneer in the field of conservation, died yesterday (May 26) in Presbyterian-University Hospital at the age of 83.

As president of the Harmon Creek Coal Corp. which had extensive strip mining operations along Route 22 west of here, Mr. Hillman voluntarily began restoring strip mine pits to fertile, productive land years before State laws were passed in 1945 requiring land restoration.

Mr. Hillman was equally active in the move to make Pittsburgh a cleaner and more attractive city.

He promoted such projects long before he became chairman of the Mayor's Committee for a Cleaner City in March, 1948, and he was one of the organizers of Pa Pitt's Partners, the citizen group which strongly supported the move for a more attractive city.

As a philanthropist he donated thousands of dollars for parks and other community projects both in Pittsburgh and in Washington County as well as large tracts of land for park developments.

A native of Pittsburgh, Mr. Hillman had many mining operations in Burgettstown and Smith Township in northwestern Washington County, and he developed forests, a park, lake and swimming pool for the residents of that area.

In Pittsburgh Mr. Hillman donated $32,000 to the city in 1949 for the development of four neighborhood parks in the Spring Garden section of the Northside, the Hill district and Hazelwood.

The donation was made through the Allegheny Conference on Community Development of which Mr. Hillman was chairman from 1949 to 1951.

In 1956, the industrialist, one of the city's most prominent Republicans, offered the city $12,500 to improve a city playground named for an early stalwart of the Democratic party—the Jefferson playground in a heavily-populated area of the Northside.

He also gave the city $5,000 for new types of playground equipment and was responsible for development of many of the city's community parks.

A contributing life member of the Western Pennsylvania Conservancy since 1961, Mr. Hillman was honored by that agency in March, 1969, for his practice of land conservation in the strip mine business. He also received numerous other awards.

In tribute, the Conservancy presented him with an honorary life membership. He was only the sixth person to receive the honor.

In January, 1969, Mr. Hillman and his wife donated 3,654 acres in Hanover Township, Washington County, to the state for use as a state park and 2,975 acres for public hunting land in the same area. He made several gifts of land in the Burgettstown area.

Not satisfied with merely restoring the contour of the land excavated in strip coal mining, Mr. Hillman insisted that it also be restored to fertile ground.

His employees stockpiled the topsoil when mining. After the strip excavation had been restored to contour, the topsoil was replaced and within a year or two there would be no evidence of the mine.

Coupled with this operation was the continuous, planned planting of 20,000 to 30,000 trees a year on the restored land. In some cases grass was planted on some of the restored land and produced a healthy growth suitable for cattle grazing.

Mr. Hillman, whose firm had been operating in Washington County since 1928, was especially proud of one 400-acre tract that was restored as an upland game preserve. That project was completed with the cooperation of the Pennsylvania Game Commission.

The late Mayor David L. Lawrence lauded Mr. Hillman as "doing a great service to the community" by his efforts in conceiving the Mayor's Committee for a Cleaner City.

The 25-member committee served as a liaison between the citizens and city officials for development of a clean city. It worked in close cooperation with Pa Pitt's Panthers and had over-all charge of projects undertaken in that field.

Mr. Hillman lived on Parish Lane, Shadyside, and the Pittsburgh office of his firm is located in One Oliver Plaza, Downtown.

Mr. Hillman attended Shady Side Academy, New York Military Academy, Haverford School and in 1912 graduated from Yale University.

In 1914 he married Marguerite Cabell Wright of Augusta, Ga. He is survived by his wife; four daughters, Mrs. John C. Oliver Jr. of Sewickley, Mrs. Richard I. Purnell of Locust Valley, New York, and Mrs. Thomas J. Hilliard Jr. and Mrs. J. Mabon Childs, both of Pittsburgh; 15 grandchildren and two great-grandchildren.

In World War I, Mr. Hillman served with the U.S. Army overseas as infantry captain of the 82nd Division.

In addition to the presidency of Harmon Creek Coal Co., he also was president of Industrial Coal and Iron Co., which became the Haverhill Co., which he sold in 1943.

In 1965 the University of Pittsburgh granted Mr. Hillman an honorary degree of Doctor of Laws and cited him as an "enlightened conservator, beloved citizen and friend, patrician gentleman."

Mr. Hillman was a member of the board of trustees of Carnegie Institute, a member of its Fine Arts Committee and from 1959 to 1965 was vice president of Carnegie Library.

Mr. and Mrs. Hillman have made numerous donations to the Museum's department of Fine Arts and Decorative Arts.

Mr. Hillman was a member of Calvary Episcopal Church, where he served on the Vestry and as Senior Warden. He also served as a member of the board of trustees of the Episcopal Diocese of Pittsburgh.

Mr. Hillman had been president of the Shadyside Hospital board of trustees, member of the advisory committee of the Home for Crippled Children, and chairman of the Pittsburgh Board of Education fund-raising committee for the Pioneer School for the Physical Handicapped.

He also was a member of the City of Pittsburgh's Sinking Fund Commission, the board of directors of the Pittsburgh Bicentennial Association, emeritus trustee of Dollar Savings Bank, charter member of the Bibliophile Society, and a director of the Civic Light Opera advisory board, Pittsburgh Playhouse board and the Pittsburgh History and Landmarks Society.

Friends will be received at the residence. Services will be held at 12:30 p.m. tomorrow at Calvary Episcopal Church, Shady Avenue and Walnut Street, Shadyside. Interment will be private in Homewood Cemetery, Squirrel Hill.

[From the Pittsburgh Press, May 27, 1972]

J. F. HILLMAN, CONSERVATIONIST, LEADER, DIES

James Fraber Hillman, prominent Pittsburgh coal operator-conservationist, died yesterday following a lengthy illness in Presbyterian-University Hospital.

Mr. Hillman, 83, of Parish Lane, Morewood Heights, had won acclaim for the reclamation work of his Harmon Creek Coal Co. long before the statewide strip mine act made such reclamation mandatory.

MR. HILLMAN HONORED

A noted civic leader, Mr. Hillman was honored several years ago in Burgettstown, Washington County, where a monument in his honor was erected following his donation of a 74-acre site to the community for a park.

The park site was a former strip-mine tract for the Florence Mine of Harmon Creek Coal Co.

Mr. Hillman's work in strip-mined land reclamation had been subject of articles in national magazines, newspapers and trade journals. In 1962 his reclamation work was praised in a nationally televised program.

He was also instrumental in passage of the state strip mining legislation in 1963.

A modest man, Mr. Hillman avoided whenever possible publicity concerning his accomplishments and civic endeavors.

YALE GRADUATE

A graduate of Yale University in 1912, he served as captain of a machine gun company in World War I, serving in the 82nd Division.

He was one of three men who raised funds in 1957 to build and equip the School for the Physically Handicapped Children in Brookline and in 1949 he donated several parklets in the city.

He was a member of the board of trustees of the Pittsburgh Episcopal Diocese, served as chairman of the Mayor's Committee for a Cleaner City, and headed the Allegheny Conference on Community Development.

ACTIVE IN C. OF C.

Mr. Hillman was active for many years in the Pittsburgh Chamber of Commerce and served as director of that organization. He was an organizer of Pa Pitt's Partners, an organization which emphasized cleanup of the city, a member of the Pittsburgh Bicentennial Committee, and a supporter of the Western Pennsylvania Conservancy.

He also served as president of the Shadyside Hospital Board of Directors; chairman of the United Housing Council, trustee of Dollar Savings Bank and a director of the Colonial Trust Co.

He was a member of the Sinking Fund Commission for the City of Pittsburgh, president of the Pittsburgh Park and Playgrounds Association and a director of the Civic Light Opera Association.

DONATED PAINTINGS

In later years he had also taken an interest in art and had donated John Kane paintings of Panther Hollow to Carnegie Museum and served as a member of the museum's fine arts committee.

He was a member of the Duquense, Pittsburgh Golf, Rolling Rock, Fox Chapel Golf and Elizabethan Clubs.

He is survived by his widow, Mrs. Marguerite Cabell Wright Hillman, and four daughters, Mrs. John Oliver Jr., of Sewickley, Mrs. Richard Purcell of New York, Mrs. Thomas Hilliard Jr., and Mrs. J. Mabon Childs, both of Pittsburgh.

Friends will be received at Mr. Hillman's home.

Services will be held at 12:30 p.m. tomorrow at the Calvary Episcopal Church, Shady Avenue at Walnut Street, East End.

Burial will be in Homewood Cemetery, Squirrel Hill.

[From the New York Times, May 27, 1972]

JAMES F. HILLMAN, CONSERVATIONIST

PITTSBURGH, May 26.—James Frazer Hillman, a Pittsburgh area coal operator, philanthropist and a pioneer in the field of conservation, died today in Presbyterian-University Hospital. He was 83 years old.

As president of the Harmon Creek Coal Corporation, which had extensive strip mining operations west of Pittsburgh, Mr. Hillman voluntarily began restoring strip mine pits to fertile, productive land years before state laws were passed in 1945 requiring it.

Mr. Hillman donated thousands of dollars for parks and other community projects both in Pittsburgh and in Washington County, Pa., as well as large tracts of land for park developments.

A native of Pittsburgh, Mr. Hillman had many mining operations in Washington County, and he developed forests, a park, a lake and a swimming pool for residents there.

He received numerous awards for this work as a conservationist including an honorary Ll.D. from the University of Pittsburgh in 1965.

In January, 1969, Mr. Hillman and his wife donated 3,654 acres in Washington County to the state for use as a state park and 2,975 acres for public hunting land.

Not satisfied with merely restoring the contour of the land excavated in strip coal mining, Mr. Hillman insisted that it also be restored to fertile ground.

Mr. Hillman attended Shady Side Academy in Pittsburgh, New York Military Academy and the Haverford School. In 1912 he graduated from Yale University.

During World War I, Mr. Hillman was a captain with the 82d Division overseas.

He is survived by his widow, Marguerite Cabell Wright of Augusta, Ga., whom he married in 1914; 4 daughters, Mrs. John C. Oliver Jr. of Sewickley, Pa.; Mrs. Richard I. Purnell of Locust Valley, L.I., and Mrs. Thomas J. Hilliard Jr. and Mrs. J. Mabon Childs, both of Pittsburgh; 15 grandchildren and two great-grandchildren.

A funeral service will be held Sunday at 12:30 P.M. at Calvary Episcopal Church, Pittsburgh.

THE PROBLEM OF GOVERNING OUR OVERCROWDED CITIES

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, perhaps the most critical problem facing New York City, and every large metropolitan area in America today, is a pervasive malaise which is reflected quite clearly in such symptoms as an ever-escalating crime rate, a staggering incidence of police corruption, and an unprecedented rise in narcotics addiction. The usual, automatic reactions to these outward signs of a grave, underlying problem consist of superficial promises to provide temporary relief for this or that crisis.

What is ailing America's large cities at the most basic level can, I feel, be traced to the size, for example, of New York City's population in relation to the ante-dated governmental structure which is expected to provide adequate services for 7,800,000 citizens.

Let us not be deceived into thinking that these public administration deficiencies can be dismissed as an academic problem—one which has little to do, let us say, with the price of heroin in the neighborhood schoolyard. Actually, the two phenomena are intimately related.

New York City can no longer command sufficient tax revenues to pay for the requisite police, fire, sanitation, education, welfare, and social services. An ever-expanding ring of suburbs is strangling the city by taking full advantage of jobs and services without contributing a fair share in taxes. It is little wonder that entire sections of New York City are being overrun by thieves, callous pushers, and desperate addicts.

There is no magic remedy for this underlying malaise. We may have to experiment with new forms of local government—a regional tax and service base, for example, that would pool the resources of New York City and its surrounding suburbs in Nassau and Westchester.

Another possible solution which must be tried is the concept of revenue sharing. Too great a number of States and cities are approaching real bankruptcy. Drug abuse, to take an example mentioned above, has now reached the point in New York City where almost 200,000 addicts are coursing through the streets. Approximately 27,000 of these addicts are presently being treated, but the city is obviously fighting a losing battle. If a significant amount of Federal revenue, however, were shared with the States and localities, then the city of New York might be given a fighting chance in its battle against the narcotics plague.

If a Federal revenue-sharing mechanism is quickly put into effect, and if research, experimentation, and public debate proceed on the feasibility of new political subdivisions, we will, I am sure, have gone a long way toward reserving the fundamental verve and spirit of our great cities.

City agencies will finally be able to attack the crime and drug abuse problems with more than a handful of funds. More importantly, we would be in an infinitely better fiscal position to embark upon the housing, education, and social service programs which can make productive citizens of potential criminals and addicts.

ALASKA PIPELINE BILL TO BE INTRODUCED

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, tomorrow I am introducing in the House legislation that would delay final approval of the Alaska pipeline so that a National Academy of Sciences' study can be conducted comparing both the economic and environmental merits of a trans-Canadian pipeline as an alternative to the Alaska route. This legislation would also require congressional approval before any go-ahead could be given for either an Alaskan or Canadian pipeline.

There is, I believe, overwhelming evidence that building parallel natural gas and oil pipelines across Canada to the Midwest would have both tremendous economic and environmental advantages over building a separate oil pipeline cor-

ridor through Alaska and another natural gas line through Canada.

I believe the administration's decision to give the go-ahead for an Alaska pipeline was based on political criterion, not on economic and environmental considerations. I also believe that an objective and thorough study by the prestigious National Academy of Sciences will prove that the Canadian pipeline is superior in virtually every respect.

The question of how the huge quantities of oil and natural gas in Alaska are to be developed is so important to this country's overall energy policy, and to the protection of the environment, that this question must ultimately be resolved by Congress. The administration has already shown how easily it can be pressured by the oil industry. The burden now falls on Congress to insure that a rational decision is reached.

DON'T VIOLATE FOREIGN DRUG LAWS

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, as the summer travel season approaches, I believe it is once again necessary to warn Americans, particularly the youth of this country, as to the possible consequences of drug offenses committed abroad.

It should be emphasized that many foreign countries impose severe penalties for possession of, and trafficking in, marihuana and narcotic drugs. In addition to the penalties, imprisonment in foreign jails often exposes convicted Americans to inadequate medical care and unsanitary living conditions.

I wish to commend the Bureau of Security and Consular Affairs for being instrumental in bringing this message to the American people who travel abroad.

I wish to include in the RECORD at this point a summary of the efforts of this Bureau in this matter and I especially want to commend Barbara Watson, the Administrator of the Bureau of Security and Consular Affairs, for her unselfish and devoted work in warning Americans as to the hazardous repercussions of foreign drug violations:

SUMMARY OF STEPS TAKEN BY THE BUREAU OF SECURITY AND CONSULAR AFFAIRS TO ALERT YOUNG AMERICANS TO THE DANGERS OF VIOLATING FOREIGN DRUG LAWS

One of the responsibilities of the Bureau of Security and Consular Affairs involves the welfare and protection of American citizens abroad, including those who are arrested for violating the laws of other countries. For many years the reasons why Americans were in jail were the obvious ones, including fraud, careless driving, smuggling and black marketing. Early in 1969, however, a new and ominous element entered the reports of arrests coming into the Department from posts abroad. Young people were being detained for violating the drug laws of foreign countries in constantly increasing numbers. At the end of March 1969, there were 142 Americans in foreign jails for this reason. By the end of March 1970 the number had risen to 522 and a year later it was 711.

The problem caused the Department the greatest concern for a number of reasons. The bulk of the offenders were young persons who did not appear to realize that the drug laws of foreign countries are often more strictly enforced than they are here. Foreign jails are frequently unsanitary; food and medical care are inadequate; and sometimes the sentences are long. Lastly, since travelers are subject to the laws of the country they are visiting, there are strict limits as to what our consular officers can do to assist American citizens once they have been arrested.

Considering these factors it appeared to the department that the most effective step that could be taken to limit the number of Americans being arrested abroad on drug charges was to warn them *in advance* that foreign countries often have severe penalties for violation of their drug laws, that they frequently implement these laws strictly and that Americans when traveling abroad are subject to such laws as much as are citizens of the country concerned. With this concept in mind, the Bureau of Security and Consular Affairs in cooperation with the Bureau of Public Affairs drew up and executed a continuing and far reaching public information program involving all the media beginning in early 1970. Listed below according to the type of media involved are the principal activities undertaken by the two Bureaus thus far to warn Americans:

A. PRESS CAMPAIGN

Miss Barbara M. Watson, the Administrator of Security and Consular Affairs, initiated a widespread press campaign with a briefing for correspondents on March 31, 1970. At that time she distributed a press release pointing out the increasing number of young Americans under detention in foreign jails on drug charges. The conference received nationwide coverage in newspapers, on national television and in the student press. The Administrator held a similar press conference the next spring to provide a fresh warning before the summer travel season and she plans to do the same thing later this spring.

B. MAGAZINE PUBLICITY

The Bureau of Security and Consular Affairs and the Bureau of Public Affairs have cooperated in encouraging and assisting magazines to print articles on the drug situation abroad. Articles on the subject appeared in the *U.S. News and World Report, Time, Newsweek, Life,* the *Reader's Digest, Playboy* and other magazines.

C. TV PUBLICITY

The Department worked closely with CBS to produce an excellent TV presentation for the 60 Minutes Show in June 1970 including interviews with young Americans abroad. The Bureau also helped the Cox Broadcasting Company produce a TV series in early 1971 featuring interviews with Americans actually serving sentences in foreign jails on drug charges. Richard Valeriani interviewed the Administrator for the NBC evening TV news report in June 1971 as well. Miss Watson appeared on the Chris Craft TV show in March 1971, the Today Show in April and WETA–TV in June of that year to disseminate further the message on penalties for drug violations abroad.

The Bureau of Public Affairs distributed filmed interviews with the Administrator on this subject to nearly 500 TV stations in 1970 and 1971. It is in the process of doing so again this year. In addition, the Bureau distributed two public service slide announcements warning against penalties for narcotics violations in foreign countries to the above TV stations.

D. RADIO PROGRAMS

In March 1970 the Department arranged with Metromedia to broadcast a series of six radio spots featuring Miss Watson and a young man who had returned to the U.S. after serving a jail sentence for drug violations in Beirut, Lebanon.

During the same month Miss Watson taped a radio talk warning young Americans of the dangers of violating drug laws which was distributed to approximately 1,000 radio stations by the Bureau of Public Affairs. A series of four public service "spot" announcements were also distributed to 665 youth-oriented radio stations. Miss Watson discussed the same subject on the Arlene Francis Show on station WOR and she taped an interview for station KABC in Los Angeles.

E. SPEECHES

The Administrator and other members of the Bureau staff have given numerous talks on the subject of drugs. Miss Watson gave major addresses at the World Affairs Council in Pittsburgh in October 1970 and at Barnard College and the National Association of Foreign Students at the University of British Columbia in May last year. Other officers participating in the Department's speaking program have been provided with material and were asked to refer to the problem in their speeches, and have done so in numerous engagements.

F. OTHER MEASURES

The Bureau of Security and Consular Affairs and the Bureau of Public Affairs have produced and distributed to Passport Agencies, universities, travel agencies, and all major international air carriers, over 600,000 leaflets warning young travelers of the penalties for violating foreign drug laws. Several airlines responded by including articles on the subject in their passenger publications.

In May 1970 a letter was transmitted to each Member of Congress regarding the increasing number of young Americans under detention abroad for violating drug laws. Many Congressmen distributed copies of the letter to their constituents. Miss Watson also appeared before members of the House to brief them personally in 1971.

All posts abroad have been alerted to the problem and many have prepared and distributed posters and leaflets for the attention of Americans already abroad.

The Department has also cooperated with the White House and with the Advertising Council concerning their excellent campaign on the same subject.

The rate of increase in the number of Americans in jail abroad on drug charges has been slowing down in recent months. It stood at 919 at the end of March which was a moderate increase over the previous month's total of 881. It appears, therefore, that the Department's efforts to alert young travelers to the dangers of violating foreign drug laws are bearing fruit. We do not consider, however, that the task is by any means complete. In addition to the steps mentioned previously, the Department is now preparing a pamphlet for young Americans who are planning to travel abroad which includes a section on penalties for violating foreign drug laws and an explanation of the limits as to what consular officers can do to help them if they are arrested. The Administrator has already given a short talk for TV spots. The Department is also planning to distribute a series of short radio spots to rock and university stations featuring an interview with a young American who has returned to this country after serving time in a foreign jail for drug violations. We shall continue our campaign to alert young Americans to the dangers of violating foreign drug laws with the goal of achieving a substantial reduction in the number of arrests.

REPORT ON THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to take this opportunity to congratulate my distinguished colleagues on the Government Operations Committee for their preparation of the current report on the Law Enforcement Assistance Administration. The Legal and Monetary Affairs Subcommittee, chaired by my good friend, Hon. JOHN S. MONAGAN, deserves our special appreciation.

LEAA has for some time been subject to a great deal of criticism from various quarters. The organization has been President Nixon's answer to the catastrophic growth of street crime in our Nation. Regretably, LEAA has failed in its mandated duty. The report states unequivocally:

> The block grant programs of LEAA had no visible impact on the incidence of crime in the United States.

Several Members of Congress have introduced bills to reorganize and improve the operation of the law enforcement agency. I believe that the Congress should hesitate no longer in taking action on these bills. The report suggests that congressional action would be the most suitable and successful type of remedial improvement for LEAA. I agree with this suggestion.

Last January 27 the members of the Chicago delegation joined in sending a letter to Mr. Jerris Leonard, the Administrator of LEAA. In that letter we offered our criticisms of the agency's operation. I am sure that I represent the other Congressmen from my city when I say that we are pleased that our criticisms have been verified by the committee's report.

PANAMA: CENTER FOR EXPORTING NARCOTICS INTO UNITED STATES

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 20 minutes.

Mr. FLOOD. Mr. Speaker, during the period February 18–24, 1972, as part of its comprehensive inquiry into Isthmian Canal policy questions, the Subcommittee on the Panama Canal, House Committee on Merchant Marine and Fisheries, visited the isthmus and conducted hearings in the Canal Zone. I commented at some length on that visitation in a statement to this body in the CONGRESSIONAL RECORD on March 29, 1972, on the subject, "Panama Canal: Time To End Diplomatic Futility and To Focus on Major Modernization."

One of the matters delved into by the subcommittee was the export through Panama to the United States of narcotics, which has reached a dangerous volume and reportedly involves high officials in the revolutionary government of Panama: Juan Antonio Tack, its Minister of Foreign Affairs; Moisés Torrijos, currently Panamanian Ambassador to Spain and brother of Omar Torrijos, commandant of the National Guard of Panama; and others.

Although the indicated congressional visitation in the Canal Zone was ignored by the controlled press of Panama as well as in that of the United States despite the issue of press releases by the subcommittee's able chairman, my distinguished colleague from New York (Mr. MURPHY), it was not ignored in the press of other Latin American countries.

In a series of three articles by Julio Argain, respected correspondent for "El Colombiano" in Buenos Aires, Argentina, he summarized the drug problem now existing on the isthmus. Among the highlights of these articles are the following points:

That Panama has become a principal distributing center for the export of narcotics into the United States and the Canal Zone.

That the use of narcotics is spreading among the Armed Forces of the United States in the Canal Zone and elsewhere, impairing national defense.

That fortunes are being made in Panama in this nefarious business and that those implicated include Foreign Minister Tack and Ambassador Torrijos.

That in the effort to weaken the United States, the people of which are anticommunistic, narcotics have augmented ideological propaganda as a weapon for destruction.

That countries pushing the narcotic business are those ruled by Communist governments and pro-Red nationalist or "progressive" ones, that is to say, radical.

That the real reason for the assassination on January 3, 1955, of President Remón of Panama, as publicly revealed by an officer of the Panamanian National Guard after 17 years of suppression, was Remón's strong opposition to the narcotics traffic.

Notwithstanding all these and other revelations there are those in the executive department of the U.S. Government who are so naive or stupid as to allow themselves to be brainwashed by members of the revolutionary government of Panama into believing and asserting that the United States should not oppose or question to any extent the role that the present Panamanian Government is now playing as regards the subjects under discussion.

In this connection, the United States is charged with tremendous responsibilities in the maintenance, operation, sanitation, and protection of the Panama Canal. The Canal Zone is not a piece of public or waste land but indispensable territory for canal purposes and no amount of sophistry or shabby sentimentalism can change the realistic facts involved.

The revolutionary government of Panama, doubtless following Soviet practice, states a premise that is absolutely false in character and then seeks to exploit it. For example, as to the oft repeated propaganda slogan that "the canal is ours," Panamanian revolutionaries never discuss the zone territory as being in any wise necessary for canal purposes but refer to the subject only in the manner that it belong to Panama and is of inconsequential value.

The reason that the Canal Zone and canal are under the control of the United States is because no other nation, after the French failure, was willing to undertake the costly and undetermined project. Now, after the canal has been built and operated in an efficient manner for many years by the United States, there has emerged the claim by the revolutionary government of Panama that despite the 1903 treaty the canal has always belonged to Panama and that our Nation, in refusing to recognizing the validity of that claim is practicing the most cruel and wicked form of imperialism against Panama. This particular form of Soviet argument is applicable wherever the United States is concerned but not where Soviet power in Cuba, Chile and the satellite countries in East Europe are concerned. Why is it that Panama has been able to bluff its way in getting high officials of our Government to agree in advance to cede sovereignty over the Canal Zone to that weak and unstable country, which power is not vested by the Constitution, article IV, section 3, clause 2—in the executive but in the Congress, which includes the House. Nor do our high officials ever answer the most atrocious demands presented by Panamanian demagogues. Certainly the time has come for them to speak out as did Secretary of State Hughes on December 15, 1923, in response to demands of Panama for increased sovereignty over the Canal Zone. On that occasion he called in the Panamanian Minister and with a refreshing degree of candor and vigor stated that our Government would never surrender any of the canal grants under the 1903 treaty, that it "could not, and would not, enter into any discussion" affecting its exclusive sovereignty over the Canal Zone, and that it was an "absolute futility for the Panamanian Government to expect any American administration, no matter what it was, any President or any Secretary of State, ever to surrender any of these rights."—House Document No. 474, 89th Congress, page 153. Yet, at this very moment, our officials are negotiating for such surrender to a government that not only has made impossible and unrealistic demands but also is reportedly undermining the morale of our youth and Armed Forces by the export of narcotics.

Mr. Speaker, in order that the illuminating recent newsstories by Julio Argain may be available to the Congress and agencies of our Government concerned with the narcotic problem and Isthmian Canal policy questions, I quote them as parts of my remarks along with a recent newsstory from the Washington Post. The last cites the CIA as stating that Panama is "one of the great contraband centers of the world" and thus serves to confirm the revelations in the Argain newsstories:

DRUG RUNNERS—I

(By Julio Argain, correspondent for "El Colombiano")

BUENOS AIRES, March, 1972.—The "boom" [English in original] these days in Buenos Aires—and surely in many other capitals, maybe with greater resonance—has been constituted by the accusation made by officials of United States Federal Customs Bureau and the Federal Bureau of Narcotics and Dangerous Drugs, attached to this country's embassy in Panama, indicating that high officials in the Panamanian government were implicated in the smuggling of drugs

from Panama to the great republic to the North.

This time it isn't just a matter of a pointless accusation picked up in the street concerning unnamed parties. It was made in Washington by Democratic Representative John M. Murphy, who "maintains it despite a denial from the State Department", and Murphy gave names: the implicated officials, among others, could be the Minister of Foreign Affairs, Juan Antonio Tack, and the Ambassador to Spain, Moisés Torrijos (who previously held this post in Argentina, from where he "unseasonably" absented himself without even saying farewell to the government in Buenos Aires in the customary protocolar manner), brother of Panama's "strong man". The names of the reporting agents attached to the U.S. diplomatic service were given, and all this was widely divulged by *Washington Post* columnist, Jack Anderson.

The immediate result of the scandal might be foreseeable, once representative individuals were exposed: the government of Panama expelled the reporting agents, instead of confronting them and demanding that they prove their statements, rash and slanderous, if they were false. The aggressive and arrogant statements made within certain circles in Panama when the United States is mentioned, were tempered down. Advantage wasn't taken of the magnificent opportunity which presented itself to unveil the "Yankee intrigues". The charges were simply denied, notwithstanding their extraordinary gravity.

Surprised by the unexpected impact, the United States Department of State has assumed a confused attitude, at least thus far. On one hand it has refuted the reports of its agents, but it isn't separating them from their posts as if they were common liars. On the other hand, it "deplores" the fact that the government of Panama has taken an "unjustified" stand. That is to say, "unjustified" because the accusation is positive, it is true, so nothing justifies the expulsion of the three agents.

By not checking further or explaining what the two contradictory positions are based on—declaring that it refutes its agents' reports and then right away expressing the opinion that their expulsion is not justified—the State Department forgets a dispatch which the world news agencies transmitted on June 15, 1971 (published on the 16th), which assures that "President Nixon is calling for an energetic campaign against crime and drugs". In fact, at that time, Mr. Nixon "met in the White House with two consecutive war councils" to adopt measures "against crime and drugs, *because they are undermining the police and the Army*". In these latter emphasized words is the key of the campaign which Nixon "promised", after verifying that the drugged American soldiers in Indochina were estimated at 50 thousand, physically and mentally handicapped not only for the nation's defense, but for any other job. Everything is contained in the above-mentioned dispatch.

Panama [has been] converted into a principal distributing center for narcotics, for there they are received from different countries in the world, especially from Laos, Thailand, and China, and [are directed] not merely to the Americans in their homeland. The use of drugs is also spreading among Panamanian youth and the United States garrison in the Canal Zone. A simple procedure for reducing without struggle, while at the same time carrying on a juicy and disreputable business which is producing earnings of tens of millions of dollars. This proven peril to the national defense was what determined the establishment in Panama, as an attaché to its embassy, of a section from the United States Federal Customs Bureau and the Federal Bureau of Narcotics and Dangerous Drugs.

One detail of the greatest importance, outstanding without a doubt, in Representative Murphy's accusation refers to the fact that this congressman is the Chairman of the House Subcommittee for "Panama Canal Affairs", and he personally gathered the details of his sensational announcement during a visit he made to the Isthmus during the latter half of last February. He must be very well informed, without possibilities of falling into errors or mistakes that could cause him a lack of prestige and to be removed from the exceptional position which he holds at the present time.

DRUGS IN PANAMANIAN POLITICS—II

To speak of drug running in Panama is something as common as speaking of the weather or asking a friend about his health. Under its practice fortunes impossible to acquire by common means have been amassed and are brazenly displayed. There are buildings which have received a low-cost classification [this sentence somewhat vague, seems to be; and it needs to be made known how their construction was paid for]. Daring merchants hid drugs in their imported merchandise. In some way they prevented the discovery of these when the merchandise was unloaded and also being reported when they went on the market.

A political crime that moved America had its origins in the narcotics problem. It is no longer necessary for us to say it because an outstanding person in the present Panamanian administration has exposed it, perhaps for the first time in print. Here is the background.

Around the middle of 1971 Major Manuel J. Hurtado of the National Guard was removed from his post as mayor of Panama City, which awakened the most varied comments, and in the fact of these, Major Hurtado addressed a letter to his chief and bosom friend, "strong man" Omar Torrijos. This letter was published on July 16, 1971, in the daily *"La Estrella de Panamá,"* and it reads literally: "I am aware that my removal as Mayor has even been attributed to a decree I issued forbidding the thick prostitution in the bars and nightclubs, and people have been so vile as to say that this decree had ulterior motives. . . . There is one thing indisputable in the decree: through it was definitely controlled that which isn't controlled by physical examinations nor orderly file cabinets: *The narcotics traffic*, against which our immortal symbol, *General José Antonio Remon Cantera*, struggled relentlessly and *gave his life*". (The underlining of the capitalized words is by us).

A sensational revelation by an authorized source. Remón was vilely and cowardly assassinated while he was President of the Republic (January 3, 1955), because of "opposing the narcotics traffic". The crime was exposed as to its origin sixteen years after it was committed. The foregoing was superfluously known and in Panama comments were made on it in private. This crime has frightening aspects since the novelistic narration of the facts begins with the prior arrest in Puerto Rico of a lady closely tied to Remón, who was hiding an important amount of heroinic drugs in her luggage. The event was widely publicized. Then a nauseating trial at which innocent people were sentenced in an unmerciful struggle by beneficiaries who aspired to power.

A week before the publication of Major Hurtado's letter, the Associated Press and United States International agencies, among others, reported the arrest at Kennedy International Airport in New York City of Rafael Richard, 24, the son of the Panamanian ambassador to Nationalist China, after a contraband of 79.3 kilos of heroin was discovered in his luggage, whose market value was over 20 million dollars." A bail of 50 thousand dollars was set for Rafael Richard's release. Already on February 12, 1971, Panamanian citizen Joaquín Him González, had been arrested in the Canal Zone by United States authorities serving an arrest warrant from the court of Dallas, Texas, for "being implicated in the traffic of drugs," (dispatch from the Italian news agency ANSA, among others). At this time the Panamanian Chancellor Tack hastened to state that this was an "illegal action" and to demand the surrender of the alleged criminal [to the] as yet unrecognized right of jurisdiction.

We could document a great deal more in this respect in order to demonstrate that the traffic of drugs in Panama is an everyday occurrence, the recourse of certain privileged groups in order to amass wealth, and that the details of their doings is freely discussed. They frighten no one. No government has ventured to fight the shameful trade, and the only leader who was able to fight this moral gangrene from the lofty spheres of his people, has been overthrown on three occasions by the National Guard. His replacements have never initiated a punitive campaign against the drug pushers.

As a final point to this report we will mention one important statement, strictly documented like all the foregoing: a dispatch by the French news agency AFP on July 14, 1970, sent from Mexico, begins with the exact following words, prior to the details: "The American professor, Kenneth F. Johnson, of the University of Southern California, accused the Panamanian government of being a narcotics pusher and urged the United States to cut off aid to regimes such as that of Panama."

DRUGS, YES: IDEOLOGY, NO—III

It is categorically seen that the countries engaged in the smuggling of drugs into the United States, who have made Panama their worldwide geographical capital, are ruled by communist governments—or nationalists or progressives, as they now like to be called in order to arouse the least possible suspicion.

It isn't hard to uncover the reasons for appealing to these disguises and thus, undermining the democratic bases of Lincoln's homeland, and we condense them in the title of this article: Drugs, Yes. Ideology, No.

It is totally counterproductive for communism to carry on ideological propaganda in America. Communism is the underdog and the peoples of our hemisphere aren't made up of majorities of unconditionally stupid people. It suffices to review recent history to reach this conclusion.

The failure of the "Soviet paradise" in Cuba under the dictatorship of Fidel Castro has been thunderous and becomes more pronounced every day. The second formal attempt in Bolivia by the former General Juan José Torres was crushed in hours and gave way to the union of the two big democratic parties, irreconcilable enemies until this historical moment; the Bolivian socialist phalange and the nationalist revolutionary movement. Before this, the guerrilla Ernesto Guevara, who had promised "to raise a Sierra Maestra all along the Andes," was defeated and killed. The Peruvian "nationalist" (red) attempt was placed in ridicule when, after having very spectacularly appropriated the property of the International Petroleum Company, a United States firm, it assigned 1,200,000 hectares of territory to Occidental Petroleum, a United States firm from Los Angeles, for exploration and operation. Later on, Peru decorated Nixon's wife for her "sympathy and assistance" shown following the 1970 earthquake. Other first ladies of the continent did the same thing, but only the one from the United States was thanked: Lima so urgently needs United States' favor that it didn't even notice the diplomatic "boner" it pulled. In Chile, the communist government front is defeated in three consecutive elections and officially admits its failure. In addition, the country has entered upon a period of rationing and this is increasing the popular discontent. The com-

munist Frente Amplio [Broad Front] is defeated in a catastrophic manner in Uruguay and a citizen who has promised to follow a hard line against the subversion initiated by the former leader, Pacheco Areco, is elected President of the Republic. In Brazil communist activity has totally disappeared and—together with Colombia and Venezula—along with this their development and progress are surprising.

The strategy of Sovietized socialism needs to be rectified. No more ideological propaganda; let it be replaced by enticement to the use of narcotics with more practical results. There must be complacent and corrupt authorities who will personally get wealthy while they poison, weaken and frustrate their young people, by converting them into an amorphous and innocuous group which neither reasons nor possesses a will.

But the problem which this perspective offers to the consideration of the United States and other injured parties is no longer political. It concerns neither hygiene nor public health. Now it is national defense.

In a previous article of this series we mentioned an official charge made by the President: 50 thousand American soldiers in Indochina have taken heroin drugs and have been incapacitated as useful persons: thousands of them "can't even be used as employees. The rest will need a long and costly detoxification process, whose outcome is problematic. If in the same proportion as in Indochina, 20 or 25% of the whole United States Army were hooked on narcotics, the country would lose the strength which backs up its status as the world's leading power. And it would have to capitulate, no longer in a war, but at a table of negotiations for lack of the condition upon which it bases its outstanding position."

And the key in the operation of this criminal campaign of annihilation: Panama. Naturally, because the United States permits it, protects it and even rewards it, and pays no attention to its patriots who report the scandal.

The country being used as the springboard for this process obtains its own benefits as well. It injects the poison of the narcotics into its own citizens and makes them irresponsible and submissive to the acceptance of tyranny. A healthy populace reacts and even goes to the sacrifice, if need be, consciously and patriotically inspired. Converted into puppets, they allow it to go on.

Drugs, yes. Ideology, no. A new time bomb which needs to be disarmed as a basic duty of national defense before it goes off.

[From the Washington (D.C.) Post, May 6, 1972]

HEROIN TRAFFIC SHIFTS SOUTH OF BORDER

(By Jack Anderson)

For decades, international heroin gangs have sent their deadly wares from Marseilles' back-alley laboratories directly to Mafia distributors in New York City.

But crackdowns have now made this direct trade dangerous for the Corsican criminals in France and their Cosa Nostra counterparts in the New York City area.

Increasingly, they are shipping the addictive white powder through Latin America and the Caribbean, where bribery, bootlegging and buccaneering have been respected pursuits since the days of Blackbeard, Henry Morgan and Captain Kidd.

The Central Intelligence Agency, which only lately has gotten into dope counterspying, has summarized the problem in a 20-page secret report circulated to a few federal agencies.

Area by area, here is the CIA's picture of this new dope circuit:

CENTRAL AMERICA

Mexico produces "15 to 20 per cent (perhaps up to 25 per cent) of all heroin used in the United States . . . most notorious of the illicit drug centers in Mexico is Culiacan, capital of the state of Sinaloa.

"It has been called the 'Heroin Capital of Mexico.' Many of the well-to-do townspeople, including those now engaged in legitimate businesses, are said to have gotten their start dealing in narcotics."

The home-grown Mexican heroin is sent to San Diego, Los Angeles, Seattle, Denver, Phoenix, Albuquerque, Houston, Fort Worth and Dallas.

MEXICAN FIXES

Our own investigation has turned up a government-protected dope "shooting parlor" in Juarez, Mexico. Young American addicts from El Paso, some on military drug withdrawal programs, simply cross into Mexico to get a "fix."

Panama, whose foreign minister Juan Tack was recently exposed by us as sanctioning dope traffic, is "one of the great contraband centers of the world," reports the CIA. Heroin pours in from Lima and Santiago, cocaine from Guayaquil and Quito, in Ecuador, and from Colombia. European and Asian dope exporters also use Panama as a transshipment point.

Costa Rica opium crops have been discovered recently "in gardens, in a cemetery, and on the slopes of Irazu Volcano." There are unconfirmed reports of clandestine labs.

THE CARIBBEAN

Nicaragua may be a "transit point for heroin shipped north from South America via Panama to the United States," says the CIA.

Puerto Rico and the Virgin Islands have heroin operations run by "Cuban exiles and Puerto Ricans in the United States (who) act as middle men . . . while Argentinians, Chileans, Uruguayans, and nationals of other transshipment countries act as couriers."

Guadeloupe, Curacao, Aruba and Trinidad are also named by the CIA as "stepping-stones" for shipment of heroin, cocaine, hashish and marijuana to the U.S.

SOUTH AMERICA

"Big-time operators with international connections and innumerable small-scale smugglers called 'hormigas' (ants) cross the sievelike borders with impunity," alleges the CIA.

"The busy ports of Barranquilla, Rio de Janeiro, Montevideo, Buenos Aires, Valparaiso, Antofagasta, Callao, Guayaquil, and Buenaventura act as funnels. . . . Smuggler planes, ranging from Piper Cubs to DC-3s, and even to four-engined Lockheed Constellations . . . are used," says the secret CIA report.

OFFICIAL CORRUPTION

"Most of the drug traffic in South America involves marijuana, which is grown extensively in Colombia, Brazil, and Paraguay and coca leaves and cocaine produced in Bolivia, Peru, Chile and Ecuador."

But there is also some opium production in Colombia and Ecuador.

"An Italian shipping line is currently involved in smuggling heroin from Marseilles, France, to Valparaiso, Chile, via Panama," says the CIA without naming the shipping line.

BECAUSE THIS IS A GOOD COUNTRY

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. FLOWERS) is recognized for 5 minutes.

Mr. FLOWERS. Mr. Speaker, in the last 2 weeks since the tragic attempt to kill Gov. George Wallace, I have spent much time in serious reflection on the problems of our Nation, just as many others must have. Many people have wondered aloud at what our country might be coming to—when a man in public life speaking out forcefully on the issues is shot down in cold blood in the middle of a political gathering.

Of course, most of us share those feelings of concern, and in my public statement immediately following the incident, I said:

I am shocked beyond belief that anything such as this could happen once again in America. It leaves me with a dread feeling about the future.

In retrospect, I must say that my feelings are somewhat different. First of all, and of great importance, let us not forget that our Governor was shot by one man apparently acting alone—just as in the Kennedy assassinations. People such as Oswald, Sirhan, and Bremer are few and far between, and they are far outnumbered by the good, kind, law-abiding citizens who for the most part make up the character of the "average American."

I agree, Mr. Speaker, with the statement the President made in the state of the Union message last January 20.

America is great not because it is strong, not because it is rich, but because it is good.

I am reminded of the man I met at the hospital shortly after the shooting. He noticed my Alabama license tag and asked me to relay to the Governor's doctors that he was there to give blood if needed. He was from Maryland and had driven 75 miles just to be there. Another man from Pennsylvania made the same offer before I could hardly get out of my car.

I remember the speed at which news of the incident circulated. For the first time in memory, there was a complete overload on the telephone switchboard at the Capitol. There were simply not enough lines to handle the traffic.

Nearly as quick as the jamming of the switchboard came a spontaneous outpouring of sincere and genuine concern from every conceivable source. Political and Government leaders, other candidates, many who did not necessarily agree with the Governor's political views—average Americans of every race, color and creed expressed their distress over the tragic event and their prayerful hope for an early and complete recovery by Governor Wallace. The President immediately made available every facility of the Federal Government and personally visited the hospital on the eve of his departure for Moscow.

The physical handling of all the calls, letters and telegrams has been a real problem, but it has been one of those heartwarming experiences that doesn't come along often enough. I know that it has been a pleasure for my office staff to help out in this regard. I am told that at one time, there were probably more flowers for Governor Wallace at the hospital than at the National Botanical Gardens.

So, I am still optimistic about the future. Sure, we have got our problems as a Nation, and we have got to be watchful for the Arthur Bremers of this world. But America is still the greatest Nation ever on the face of this earth, with hope so vast that only the most pessimistic would fail to acknowledge.

STATEMENT OF CONGRESSMAN FRED SCHWENGEL ON BOMBING

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 5 minutes.

Mr. SCHWENGEL. Mr. Speaker, from time to time I have the privilege of associating with and learning from students who are in the colleges in my district. And, probably because I do have a liaison committee on each college campus that deals with and considers the important issues of our time, I hear from them more often and because of that, they speak more frankly to me about the issues and problems. This is both helpful to me and to them, because I can give them the benefit of my experience and my knowledge that helps bridge the gap and to develop an understanding and appreciation of each other's area of responsibility.

Recently, I received a petition from Peter Benner and Annie Lataurette. They handed me a petition with over 6,000 names on it relative to the Vietnam war. The petition reads as follows:

We, the people of Iowa City, petition our representatives, Senators Hughes and Miller, and our Congressmen, Schwengel, to declare themselves *publicly* in favor of an immediate halt to the bombing of North Vietnam and immediate withdrawal of all American forces from Vietnam. We demand that they pledge themselves to support all legislation in Congress to this effect. We ask that this public statement be made within their districts by May 30.

Their real concern, Mr. Speaker, is that they believe as I do that bombing has little effect on a desirable outcome of that conflict. They have pointed out to me what is already known from special studies—that over 6.4 million tons in all have fallen in the Indochina area. This, according to the Cornell University study, has left over 20 million craters in those lands. This they believe, and I believe, will be a scar on the earth that will not be good to look back on, especially when we note that it has not been successful. They point out the fact that we all know that is a tragedy. Over 50,000 of our boys come back in boxes and over 450,000 Asian civilians have been killed. Add to this the millions who have been wounded and will carry scars for life. They see the futility of this operation.

This is the reason, Mr. Speaker, why I issued the following statement after the bombing began:

STATEMENT OF CONGRESSMAN FRED SCHWENGEL

The President's remarks last night give us all cause to pause. With most Americans, I hope and pray the President's new initiatives will bring an end to the war. Encouraging to me was the President's statement that the release of the POW's and an internationally supervised cease-fire would guarantee a complete American withdrawal in four months. But there are grave risks which cannot be minimized. The risk of direct confrontation with Russia and China over Vietnam is now a real threat for the first time in the War.

Given the rather poor and shoddy performance of the South Vietnamese Army in the northern part of their country, one cannot help but wonder if Vietnam is worth this sort of confrontation.

We have given the South Vietnamese every advantage. In 1971 we gave them $1.5 billion in military aid compared to the $175 million in military aid received by the North Vietnamese from Russia and China. The South Vietnamese have had the benefit of our complete air superiority, in both South and North Vietnam.

Even with all of those advantages, they have lacked the capability and will to defend themselves. To risk major power confrontation over such a nation is questionable to say the least.

There is no doubt that the North Vietnamese have unnecessarily provoked this confrontation. We are withdrawing from Vietnam. While I personally have favored a more rapid withdrawal and have so voted, it is clear we were on our way out. The current situation should not alter our basic commitment to complete our withdrawal.

It is my earnest hope that the North Vietnamese, encouraged by Russia, will now begin serious negotiations which can finally end the war.

THORNING ON DEBRAY ON ALLENDE

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, Dr. Joseph Thorning, the well-known expert on Latin America and recently the acting Chaplain of the House in our annual celebration of Pan American Day, has reviewed for the magazine America the book "Conversations With Allende" by Régis Debray.

Dr. Thorning's posing of the pertinent questions about the Allende regime and his analysis of the present Chilean situation come at a very significant time and for this reason I include here with my remarks Dr. Thorning's review for the information of those colleagues interested in Latin-American problems in general and the Chilean problem in particular.

THE CHILEAN REVOLUTION—CONVERSATIONS WITH A POSTSCRIPT BY SALVADOR ALLENDE

(By Régis Debray)

Will the Chilean Revolution be a "revolution without rifles"? That is the key question posed by French journalist Régis Debray in his dialogue with President Salvador Allende.

Debray whose original idol was Fidel Castro, supplies an answer of his own. In his Introduction the author assures his readers that, in order to gain absolute power, the use of force is sanctioned by "universal principles of Marxism-Leninism."

In responding to the inquiries of his youthful admirer, Allende provides data about his boyhood, medical education and political thinking. As a lad of fourteen, he was greatly influenced by a cobbler-anarchist who taught him "how to play chess," to enjoy "the good things of life" and to read books on social issues. Three generations of his family were freemasons, who often engaged in controversy with conservatives, especially "on a religious front." Almost from the start, Allende reveals, he was "aware of his anti-imperialist vocation." As a youthful politician, he became one of the founders of the Socialist Party in Valparaiso. He insists, however, that his Marxism had "nothing to do with European Social Democrats."

When in 1938 President Pedro Aguirre Cerda organized the first short-lived "Popular Front" government, he named Dr. Allende Minister of Public Health. The job showed the young man's capacity for leadership and brought his gifts of oratory and organization to national attention. Despite three subsequent defeats in hard-fought presidential campaigns, he won enough votes from a Socialist-Communist coalition in the Chilean Senate to become President of that body during the Christian Democratic administration of Eduardo Frei Montalva (1964–70). In his fourth try for the *Casa Moneda*. Allende emerged as victor. His plurality in the popular vote was 36.3 per cent.

As President of Chile, Dr. Allende, although alluding to some differences with Castro as "fundamental and violent," explains that their goals are almost identical: "complete economic and political domination." As often as Debray expresses impatience with "the pace of socialization," his mentor emphasizes his determination to "expropriate the means of production that are still in private hands." For this to happen, he adds, control must be established over the legislative and judicial branches of government. His models are "the Socialist countries."

Recent events in Chile raise doubts about Allende's prospects of success for such a comprehensive program. The 1972 congressional by-elections brought victories to a reunited front of Christian Democrats, liberals and nationalists. As a result, Allende does not dare to consult the public about his decision to dominate congress and the courts. Food shortages, housing problems, runaway inflation, lowered productivity in mines, factories and on farms, defaults on indebtedness and near-bankruptcy haunt the Popular Front regime.

The Debray-Allende colloquy is a valuable reference work. It can be studied, now and in the future, either as a blue-print for another collectivized society or as a plan for peaceful construction of a Socialist, but non-Soviet, Republic, respectful of basic rights and dedicated to the correction of social evils, while providing fairly for human needs.

JOSEPH F. THORNING

Rev. Dr. Joseph F. Thorning is United States Honorary Fellow of the Historical and Geographic Institute of Brazil.

TO CORRECT A BLATANT INEQUITY

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, today I am introducing legislation to rectify a blatant inequity in the charitable contributions provisions of the Internal Revenue Code. Presently the artist taxpayer may take a deduction only to the extent of the original cost of the materials utilized in the creation of a literary, musical, or artistic composition, or similar property which was created by his personal efforts.

Therefore when a painting with a fair market value of several thousand dollars is donated to a museum by its creator he may now take a deduction only to the extent of his basis in that property—a sum of some $10 or $15. At the same time a person who had purchased the painting may deduct its full fair market value if he should make a charitable contribution. This situation is absurd. It also militates against such charitable contributions by artists. The public will ultimately suffer the loss of accessibility to these works which may find their way into private collections.

The bill which I am introducing today will correct this unconscionable situation by permitting the creator to deduct the full fair market value of the literary, musical, or artistic composition, or similar property which has been donated to a

charitable organization. I urge my colleagues to support this vital legislation and terminate this inequity in our tax law.

HAS THE UNITED STATES CHANGED ITS CUBA POLICY?

(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 am sure you know of my deep concern over the growing Soviet military and naval presence in the Caribbean. I wish to call to our colleagues' attention a column by Miss Virginia Prewett which appeared in the Washington Daily News and other newspapers throughout the country.

ADMINISTRATION SAYS NO, BUT—HAS U.S. CHANGED ITS CUBA POLICY?

(By Virginia Prewett)

The Nixon administration insists it has not changed policy on Fidel Castro's Cuba. But somebody close to the President should take a good look at what is happening in Florida, because people there believe he is changing.

To begin with, the coast guard forces available for patrols in the narrow seas between Florida and Cuba have been cut back. Forces have been reduced all over, but treating the Florida situation the same as, for example, that off Cape May, New Jersey, is considered by many Floridians to indicate a change of attitude in Washington.

The U.S., meanwhile, has cracked down hard on Cuban exile groups that might try to take advantage of relaxed naval patrols. This has been duly noted. The report is current in Miami, where it is believed, that the State Department will also this year close its Office of Cuban Affairs there.

But in an incident considered even more significant, the U.S. on March 25 allowed the Russian oceanographic survey ship, the "Academician Kurchatov," to put into the port of Miami as part of 15-nation exercises in the Caribbean.

The ship, which for years has been gathering information about the Caribbean which can be most useful to Russia as it converts Cuba into a major naval base, is considered by Miami's large community of Cuban exiles as a symbol of Russian domination of their homeland.

DON'T LIKE IT

And plenty of "Anglos" do not like it. Its presence in Miami harbor was protested by Mayor David Kennedy of Miami, by Mayor Steve Clark of Dade County, by Rep. Claude Pepper, a Florida Congressman, and others.

The Cuban exile community attempted a demonstration, which was so roughly put down by the police that the Cuban newspapermen's association is protesting. Organizations of both Jews and Lithuanians protested in Miami, and somebody exploded a big bomb or mine in the water about a mile from the ship.

Cuba's exiles in Miami, who have built a new and thriving community attached to the original resort metropolis, knew the Russian ship was headed toward the Miami port before its actually arrived. Manolo Reyes, a TV personality who is often an exile spokesman, took a request to the State Department's Office of Cuban Affairs in Miami the day before the ship was due.

WOULD DIVERT SHIP

He respectfully suggested that the ship be diverted to Port Everglades, about half an hour from Miami, or to Fort Lauderdale. He was told that President Nixon's trip to Russia necessitates a "lessening of tensions" with Russia and the visit was part of this.

The Russian ship, whose use in the consolidation of Russia's military strength in Cuba is well understood even by laymen, has only put into a U.S. port once before, when a storm drove it into the Boston harbor in 1969.

The Cuban spokesman reminded the State Department official that President Johnson, at the Statue of Liberty on Oct. 3, 1969, reaffirmed this nation's invitation to Cuban exiles to come to the U.S. Dr. Reyes pointed out that allowing the "Academician Kurchatov" to visit Miami, the new "Free Havana" of the exiles, is "humiliating" to the latter. Thousands of them are now naturalized U.S. citizens.

ASSASSINS RISK LITTLE IN UNITED STATES

(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, Mr. Paul M. Bruun, the distinguished editor of the Miami Beach Daily Sun-Reporter in my district, has expressed, in his column of May 6, 1972, the strong reaction of most Americans to the terrible attack upon Gov. George Wallace.

I include it in the RECORD so that my colleagues may have an opportunity to read Mr. Bruun's statement:

ASSASSINS RISK LITTLE IN UNITED STATES

(By Paul M. Bruun)

Sirhan Sirhan, who assassinated Sen. Robert Kennedy is still alive in a comfortable prison apartment. Had it not been for the personal actions of a night club owner, the assassin of President John F. Kennedy would probably be enjoying a comparable comfortable and safe existence without having the daily cares of earning a living and paying taxes.

There are those who disagree bitterly with me and my campaign for the Biblical philosophy, "An eye for an eye and a tooth for a tooth." Today, a murderer, an assassin takes little if any chance of losing his life for taking the life of another. Instead of reaping his just reward at the end of a hangman's noose, or a session with the squat seat where he cooks until dead, or having his life ended in a gas chamber, he is guaranteed a long and costly trial, defended by the best lawyers this country has to offer, notoriety beyond belief and a satisfactory income from writing about his evil deeds.

This once-great nation has gone soft, too soft with criminals in all stages of the ever-increasing wave of crime that is engulfing us at every turn, an epidemic of crime which has made our streets and highways unsafe at any hour and which has even reduced attendance in churches, because would-be worshipers in houses of God are actually scared for their lives.

I believe there is a remedy, a cure. I am convinced that a few public hangings, some electrocutions shown on TV, some punishment by a firing squad with the public permitted to watch via the tube, would cause those who take what they believe to be their own personal law into their own hands to think twice before committing their dastardly deeds.

Yesterday was a restless day for me. I was late in leaving my office for my afternoon rest. I was expecting an important long-distance 'phone call. The phones were on. I was awakened by the frantic ringing of both the electric doorbell and a ship's bell I have hanging by our front door. Caesar went racing to answer giving full throat to his journey. I had no choice but to get up and see who wanted what. (It was a magnificent vase of blood-red roses for Josephine from an appreciative subject about whom she had written).

I reasoned that I had better check with my office. Over the office radio I learned of the attempt to kill Gov. George Wallace. Now this isn't very conducive to resuming a rest hour.

Recently, a long-time friend who was in New York City phoned me regarding a program in which he is interested. He is a dyed-in-the-wool Democrat; has been all his life. He told me confidentially, "Paul, if I thought nobody would learn of it, I would vote for Gov. George Wallace." I told him apparently a lot of people felt the same way from his Florida and other primary totals.

I saw George Wallace once, when I drove a Sun-Reporter photographer to the Miami Beach Auditorium when he spoke to a capacity crowd. I was there for about five minutes. He had his audience in the palm of his hand. One would-be heckler was suddenly silenced by those around him, as would-be hecklers should be silenced, when another has paid for the use of a hall.

This is not a column either for or against Wallace. It is a repetition of what I have long preached; there is no place in this country for lawlessness, for the lawless.

Instead of more and more states removing the supreme penalty for murder and rape and a few other select crimes, the death penalty should be added to one whale of a lot more crimes.

There was a time when it was rumored that "A man's home is his castle." Today, this is a joke. Today, criminals can sue a home owner and win large settlements because they were injured in their illegal, their lawless pursuit. I honestly believe that every murderer, every assassin, every rapist, every person who breaks and enters any property that is not his, with the intent to do harm (and why else would any criminal enter another man's property) has no right to live among decent citizens. There are those who will think this is too harsh treatment for criminals, but I know of no other way that the overwhelming tidal wave of lawlessness will be ended. Why should any person have legal protection when he enters property that is not his, yet today's soft-in-the-head lawmakers, leftists and liberal citizens are all too willing to turn the other cheek.

I have one hell of a lot more sympathy for the family of John and Robert Kennedy than I have for those who assassinated these two bright young men who were devoted to their country, whether you agreed with them or not.

For John and Robert Kennedy there was no appeal. I pray as I pray you are praying that Gov. Wallace survives the dastardly attack that felled him in the midst of his campaign to be the President of the United States.

After a murderer has been hanged, gassed or electrocuted until dead, there is no appeal. Our liberal courts, our liberal soft-in-the-head-citizens, had better awaken and damn soon, or there will be no United States of America in which to awaken.

Perhaps the assassin attempt on Gov. Wallace will drive home to our soft-in-the-head citizens that only a get-tough policy with criminals will make this Nation habitable. Too much time has already been lost because of the liberals, those do-gooders who have helped ruin a once-great and safe nation.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to:

Mr. GRIFFIN (at the request of Mr. O'NEILL), for May 30 through June 6, 1972, on account of official business.

Mr. ALEXANDER (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. ROYBAL (at the request of Mr. O'NEILL), for today and the balance of the week, on account of official business.

Mr. KYROS (at the request of Mr. BRASCO), for today, on account of official business.

Mr. CORMAN, for Tuesday, May 30, 1972, on account of official business.

Mr. HAGAN (at the request of Mr. BEVILL), for May 30, 1972, through June 1, 1972, on account of official business.

Mr. HELSTOSKI (at the request of Mr. BEVILL), for today, on account of official business.

Mr. ESHLEMAN (at the request of Mr. GERALD R. FORD), for today and the balance of the week, on account of continued recuperation.

Mr. BROWN of Ohio (at the request of Mr. GERALD R. FORD), for today and tomorrow, 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. HASTINGS) to revise and extend their remarks and include extraneous matter:)

Mr. QUIE, for 1 hour, on June 1.

Mr. HALPERN, for 5 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. SCHWENGEL, for 5 minutes, today.

(The following Members (at the request of Mr. MAZZOLI) to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. FLOOD, for 20 minutes, today.

Mr. FLOWERS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL and to include an editorial.

(The following Members (at the request of Mr. HASTINGS) and to include extraneous matter:)

Mr. BURKE of Florida.

Mr. CONTE.

Mr. KEITH.

Mr. HALPERN in three instances.

Mr. PRICE of Texas in two instances.

Mr. DERWINSKI in five instances.

Mr. STEIGER of Wisconsin.

Mr. WYMAN in two instances.

Mr. FINDLEY.

Mr. RAILSBACK in two instances.

Mr. KEMP in two instances.

Mr. TEAGUE of California.

Mr. MCCLORY in three instances.

Mr. WYATT.

Mr. ARENDS.

Mr. HOSMER in two instances.

Mr. DU PONT.

Mr. MIZELL in two instances.

Mr. BRAY in two instances.

Mr. SCHWENGEL.

Mr. MCDONALD of Michigan.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. HAGAN in three instances.

Mr. ROGERS in five instances.

Mr. RARICK in three instances.

Mr. SEIBERLING in 10 instances.

Mr. GARMATZ.

Mr. DRINAN in three instances.

Mr. BRADEMAS in six instances.

Mr. DENT.

Mrs. HICKS of Massachusetts in two instances.

Mr. ROYBAL in 10 instances.

Mr. BURTON.

Mr. BOLAND in three instances.

Mr. GIBBONS in two instances.

Mr. MOSS in two instances.

Mr. WOLFF in two instances.

Mr. HARRINGTON in three instances.

Mr. VAN DEERLIN.

Mr. BOLLING.

Mr. BINGHAM in three instances.

Mr. RANGEL.

Mr. MINISH in two instances.

Mr. FAUNTROY in six instances.

Mr. ALBERT.

Mr. BEGICH in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1295. An act to establish the Amistad National Recreation Area in the State of Texas, to the Committee on Interior and Insular Affairs.

S. 3568. An act to designate the Federal Bureau of Investigation building now under construction in Washington, District of Columbia, as the "J. Edgar Hoover Building"; to the Committee on Public Works.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on May 25, 1972 present to the President, for his approval, a bill of the House of the following title:

H. R. 14655. An act to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 46 minutes p.m.) the House adjourned until tomorrow, Wednesday, May 31, 1972, at 12 o'clock noon.

OATH OF OFFICE OF MEMBER

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members of the House of Representatives, the text of which is carried in section 1757 of title XIX of the Revised Statutes of the United States and being as follows:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the Office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 92d Congress, pursuant to Public Law 412 of the 80th Congress entitled "An act to amend section 30 of the Revised Statutes of the United States" (U.S.C. title 2, sec. 25), approved February 18, 1948:

WILLIAM S. CONOVER II, 27th District of Pennsylvania.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to an order of the House on May 24, 1972, the following report was filed on May 25, 1972*]

Mr. HOLIFIELD: Committee on Government Operations. H.R. 6962. A bill to promote more effective management of certain related functions of the executive branch by reorganizing and consolidating those functions in a new Department of Community Development, and for other purposes; with amendment (Rept. No. 92–1096). Referred to the Committee of the Whole House on the State of the Union.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2029. A letter from the Secretary of the Treasury, transmitting a report on the operations of the exchange stabilization fund for fiscal year 1971, pursuant to 31 U.S.C. 822(a); to the Committee on Banking and Currency.

2030. A letter from the Director, Office of Legislative Affairs, Agency for International Development, Department of State, transmitting a copy of Secretarial Determination 72–2, pursuant to section 620(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2031. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting a quarterly report for the period ended March 31, 1972, on deliveries of excess defense articles at acquisition cost and at the value specified in section 8(c) of Public Law 91–672, pursuant to section 8(d) of the act; to the Committee on Foreign Affairs.

2032. A letter from the Librarian of Congress, transmitting his annual report for fiscal year 1971, together with four issues of the Quarterly Journal of the Library of Congress, and a copy of the annual report of the Library of Congress Trust Fund Board; to the Committee on House Administration.

2033. A letter from the Secretary of the Interior, transmitting a report on the Upper Iowa River, Iowa, pursuant to the Wild and Scenic Rivers Act of 1968; to the Committee on Interior and Insular Affairs.

2034. A letter from the Assistant Secretary of the Interior, transmitting the annual report for the Colorado River Basin project for fiscal year 1971, pursuant to 82 Stat. 885; to the Committee on Interior and Insular Affairs.

2035. A letter from the Assistant Secretary

of the Interior, transmitting a copy of a proposed contract with FMC Corp., San Jose, Calif., for a research project entitled "Improved Sensors and Fire Control Systems for Mining Equipment," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

2036. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed grant with the Pennsylvania State University for a research project entitled "Interrelating Data for Technical Products with Federal Standard Industrial Classification (SIC)," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

2037. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Mine Safety Appliances Co., Pittsburgh, Pa., for a research project entitled "Design, Develop, Fabricate, and Demonstrate a Battery Powered Manually Operated Underground Mine Rescue Team Vehicle," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

2038. A letter from the Chairman, Federal Power Commission, transmitting copies of parts II, III, and IV of the 1970 National Power Survey; to the Committee on Interstate and Foreign Commerce.

2039. A letter from the Chairman, Federal Power Commission, transmitting a copy of two publications entitled "Depreciation Practices of Natural Gas Companies, 1969," and "Statistics of Publicly Owned Electric Utilities in the United States, 1970"; to the Committee on Interstate and Foreign Commerce.

2040. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed use of certain research and development funds appropriated to NASA to support the space shuttle main engine research and development program, pursuant to section 1(d) of the NASA Authorization Act of 1972; to the Committee on Science and Astronautics.

RECEIVED FROM THE COMPTROLLER GENERAL

2041. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Federal Deposit Insurance Corporation for fiscal year 1971, pursuant to section 17(c) of the Federal Deposit Insurance Act (H. Doc. No. 92–304); to the Committee on Government Operations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GRAY: Committee of conference. Conference report on S. 1736. (Rept. No. 92–1097). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Senate Joint Resolution 72. Joint resolution consenting to an extension and renewal of the interstate compact to conserve oil and gas; with amendments (Rept. No. 92–1098). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 15189. A bill to allow a credit of not more than $300 against the Federal income tax for State and local real property taxes, or for a corresponding portion of rent, paid by individuals with respect to their principal residences; to the Committee on Ways and Means.

By Mr. BIAGGI (for himself, Mr. Dow, Mr. MILLER of California, and Mr. JAMES V. STANTON):

H.R. 15190. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. BLATNIK:

H.R. 15191. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLAND:

H.R. 15192. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. KOCH, Mr. ANNUNZIO, Mr. BADILLO, Mr. BEGICH, Mr. BRASCO, Mr. BURKE of Massachusetts, Mr. CARNEY, Mr. CLEVELAND, Mr. CORMAN, Mr. DAVIS of Georgia, Mr. DELANEY, Mr. EILBERG, Mr. FAUNTROY, Mr. WILLIAM D. FORD, Mrs. GRASSO, Mr. GUDE, Mr. HALPERN, Mr. HARRINGTON, Mr. HASTINGS, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, and Mrs. HICKS of Massachusetts):

H.R. 15193. A bill to amend the Education of the Handicapped Act to provide for comprehensive education programs for severely and profoundly mentally retarded children; to the Committee on Education and Labor.

By Mr. BROYHILL of Virginia:

H.R. 15194. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowed under the percentage standard deduction; to the Committee on Ways and Means.

By Mr. CARNEY:

H.R. 15195. A bill for the relief of Warren, Ohio, and Niles, Ohio; to the Committee on the Judiciary.

By Mr. CONTE:

H.R. 15196. A bill to authorize the involuntary recall of the Coast Guard Reserve to duty in time of national disaster; to the Committee on Merchant Marine and Fisheries.

By Mr. CULVER (by request):

H.R. 15197. A bill to amend section 304 of title III of the International Claims Settlement Act of 1949 to provide for the determination of additional claims for payment out of the Italian Claims Fund; to the Committee on Foreign Affairs.

By Mr. DANIELSON:

H.R. 15198. A bill to amend title 28, United States Code, relating to annuities of widows of Supreme Court Justices; to the Committee on the Judiciary.

By Mr. DINGELL (for himself and Mr. Moss):

H.R. 15199. A bill to assure protection of environmental values while facilitating construction of needed electric power supply facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ESHLEMAN:

H.R. 15200. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatement period no penalty shall be assessed; to the Committee on Education and Labor.

By Mr. FUQUA:

H.R. 15201. A bill to amend title 10, United States Code, to authorize additional general officer rank for officers of the Regular Army Medical Service Corps, and to reorganize the Army Medical Service Corps; to the Committee on Armed Services.

By Mr. HALPERN:

H.R. 15202. A bill to amend the Drug Abuse Education Act of 1970 to broaden the scope of its programs to include programs involving correctional institutions and facilities and the personnel of such institutions and facilities; to the Committee on Education and Labor.

H.R. 15203. A bill to authorize assistance to local educational agencies for the financial support of elementary and secondary education, and for other purposes; to the Committee on Education and Labor.

H.R. 15204. A bill to provide the Secretary of Health, Education, and Welfare with the authority to regulate the interstate shipment and sales of pet turtles; to the Committee on Interstate and Foreign Commerce.

H.R. 15205. A bill to provide additional protection for the rights of participants in employee pension and profit-sharing-retirement plans to establish minimum standards for pension and profit-sharing-retirement plan vesting and funding, to establish a pension plan reinsurance program, to provide for portability of pension credits, to provide for regulation of the administration of pension and other employee benefit plans, to establish a U.S. Pension and Employee Benefit Plan Commission, to amend the Welfare and Pension Plans Disclosure Act, and for other purposes; to the Committee on Ways and Means.

H.R. 15206. A bill to amend the Internal Revenue Code of 1954 to provide that tuition for the education of a handicapped dependent at a private school shall be treated as a medical expense of the taxpayer when such education is recommended by a physician; to the Committee on Ways and Means.

H.R. 15207. A bill to amend part E of the Omnibus Crime Control and Safe Streets Act of 1968 to require applications for grants for correctional institutions and facilities to include provisions for drug addiction and rehabilitation programs and to direct the Attorney General to prescribe standards for the administration of drug rehabilitation programs in correctional institutions and facilities; to the Committee on the Judiciary.

By Mr. HALPERN (for himself, Mrs. ABZUG, and Mr. SCHEUER):

H.R. 15208. A bill to establish national, regional, and local awareness advisory councils in order to facilitate communication between the President and the people of the United States, and for other purposes; to the Committee on Government Operations.

By Mr. HARRINGTON:

H.R. 15209. A bill to establish a contiguous fishery zone (200-mile limit) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mrs. HICKS of Massachusetts:

H.R. 15210. A bill to establish in the Public Health Service an institute for research on dysautonomia, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS:

H.R. 15211. A bill to amend Rule 15 of the Rules of Criminal Procedure for the U.S. district courts; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 15212. A bill to amend title 38 of the United States Code in order to permit veterans to transfer all or part of their educational assistance under chapter 34 of such title to their spouses and to provide educational assistance at the secondary school level to widows, widowers, and spouses eligible for educational assistance under chapter 35 of such title; to the Committee on Veterans' Affairs.

By Mr. KOCH (for himself, Mrs. ABZUG, Mr. BERGLAND, Mr. BINGHAM, Mr. CLAY, Mr. FASCELL, Mr. HORTON, Mrs. MINK, Mr. MOORHEAD, and Mr. SCHEUER):

H.R. 15213. A bill to amend the Education of the Handicapped Act to provide for comprehensive education program for severely

and profoundly mentally retarded children; to the Committee on Education and Labor.

By Mr. KOCH (for himself and Mr. HARRINGTON):

H.R. 15214. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

By Mr. MONAGAN:

H.R. 15215. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property to the Committee on Ways and Means.

By Mr. OBEY:

H.R. 15216. A bill to provide continued rail transportation in rural America; to the Committee on Interstate and Foreign Commerce.

By Mr. RARICK:

H.R. 15217. A bill to amend the Judiciary and Judicial Procedure Act of 1948; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 15218. A bill to amend the Internal Revenue Code of 1954 to provide that the requirement of filing certain returns and the tax on unrelated business income shall not apply to certain nonprofit social clubs, domestic fraternal societies, and veterans' organizations; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas:

H.R. 15219. A bill to provide for disclosure designed to inform Congress and the public of the identity of persons who for pay or with funds contributed to them seek to influence the legislative process, the sources of their funds, and their areas of legislative activity, and for other purposes; to the Committee on Standards of Official Conduct.

By Mr. VIGORITO:

H.R. 15220. A bill to authorize the Corps of Engineers to cooperate with the States and subdivisions thereof in the enforcement of State and local laws and ordinances in lands owned by the United States and developed by the Corps of Engineers for public use; to the Committee on Public Works.

H.R. 15221. A bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.; to the Committee on Public Works.

By Mr. WIDNALL:

H.R. 15222. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. MINSHALL:

H. Con. Res. 623. Concurrent resolution expressing the sense of the House of Representatives with respect to the withdrawal of all American forces from Vietnam; to the Committee on Foreign Affairs.

By Mr. RODINO:

H. Con. Res. 624. Concurrent resolution expressing the sense of Congress with respect to the failure of the Government of Paraguay to control the international traffic in narcotic drugs; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

394. The SPEAKER presented a memorial of the Legislature of the Commonwealth of Masachusetts, relative to the war in Indochina, which was referred to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 15223. A bill for the relief of Mrs. Bruna Turni and Miss Graziella Turni; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 15224. A bill for the relief of Leon Z. Dimapilis; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 15225. A bill for the relief of Larry C. Runkle; to the Committee on the Judiciary.

By Mr. VAN DEERLIN:

H.R. 15226. A bill for relief of Kazuko Nishioka Dowd; 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:

243. By the SPEAKER: Petition of Frank Clapp, Beverly Hills, Calif., relative to a resolution of the City Council of Beverly Hills concerning American involvement in Indochina; to the Committee on Foreign Affairs.

244. Also, petition of the Town Board, Cheektowaga, N.Y., relative to the construction of sewage treatment facilities; to the Committee on Public Works.

SENATE—*Tuesday, May 30, 1972*

The Senate met at 12 noon and was called to order by Hon. STUART SYMINGTON, a Senator from the State of Missouri.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our help in ages past, our hope for years to come, we thank Thee for Memorial Day, for sacred memories of valiant men of the past who gave their last full measure of devotion to preserve the peace and further the Nation's welfare. We would remember also all those in perilous places, now daily sacrificing for the Nation—the duty bound, the wounded, the widowed, and the prisoners of war. Be to them their strength, their comfort, their healer, and their deliverer.

We especially thank Thee this day for the new promise of peace between the nations and the prospects of its achievement in our age. May conflict everywhere be diminished and violence abated and in the climate of good will be replaced by peaceful adjudication. Guide the leaders of the nations to the time when "nations study war no more" and all men live as brothers in Thy kingdom of justice and righteousness.

We pray in Thy holy name. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 30, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. STUART SYMINGTON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. SYMINGTON thereupon took the chair as Acting President pro tempore.

REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of May 25, 1972, the following reports of a committee were submitted, on May 26, 1972:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. 3463. A bill to amend section 906 of title 44, United States Code, to provide copies of the daily and semimonthly Congressional Record to libraries of certain United States courts (Rept. No. 92-805);

S. Con. Res. 79. Concurrent resolution authorizing the printing of additional copies of Senate hearings entitled "Amphetamine Legislation 1971" (Rept. No. 92-806);

S. Res. 293. Resolution authorizing the printing of additional copies of the committee print entitled "Hunger and the Reform of Welfare: A Question of Nutritional Adequacy" (Rept. No. 92-811);

S. Res. 301. Resolution relating to the printing and distribution of legislative proceedings with respect to the death of former Senator James F. Byrnes (Rept. No. 92-812);

S. Res. 302. Resolution authorizing supplemental expenditures by the Committee on Finance for the procurement of consultants (Rept. No. 92-813);

H. Con. Res. 483. Concurrent resolution providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission" (Rept. No. 92-807); and

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments (Rept. No. 92-808).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Res. 300. Resolution authorizing supplemental expenditures by the Select Committee on Equal Educational Opportunity (Rept. No. 92-814);

H. Con. Res. 530. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made" (Rept. No. 92-809); and

H. Con. Res. 552. Concurrent resolution to provide for the printing of the Constitution of the United States together with the Declaration of Independence (Rept. No. 92-810).

By Mr. CANNON, from the Committee on Rules and Administration; original resolutions reported:

S. Res. 306. Resolution relating to the printing and distribution of legislative proceedings with respect to the death of former Senator Dodd (Rept. No. 92-815);

S. Res. 307. Resolution authorizing additional expenditures by the Secretary of the Senate in connection with his duties under the Federal Election Campaign Act of 1971 (Rept. No. 92-816);

S. Res. 308. Resolution to pay a gratuity to Katheryn Sames;