that the mechanism used to cope with any problem must be established on a level equal to the breadth of the problem. We see proof of this every day in industry and government. No business would seek to solve country-wide problems in its branch offices. Nor does the United States solve its national problems at the state level. The need for global mechanisms is supported both by logic and by the fact that nation states have not found lasting resolutions to global problems.

4. *Effective global mechanisms have a beginning in the United Nations.* It brings together 132 member nations and operates a host of specialized agencies under its umbrella. The United Nations has had a number of successes, mostly nonpolitical in nature. Conversely, it has recorded a number of failures, mostly political in nature. Despite its inadequacies, the United Nations exists and it is a significant foundation on which to build better world organization.

5. *The United Nations is what the nation states made it.* If it inadequate, it is because the nations decreed it so. If it lacks power to act, it is because the nation states have not endowed it with power. If its resources are too limited, it is because the nation states have not financed it adequately. To illustrate: the annual cost to the United States for the United Nations and all of its agencies is less than that of New York City's Fire Department. New York City alone reaps from the United Nations, its missions, and the tourists it attracts more revenue than the United States contributes to the United Nations.* If the voting system in the United Nations is unfair, it was so arranged by the nation states. If the United Nations is bypassed and ignored at times, it is because the nation states avoid it. The United Nations was given precious little sovereignty. Hence, the United Nations can act only when the nation states, particularly the great powers, want it to act and will concur with its action.

6. *The United Nations is the only global organization we have today.* It is better than nothing, but it needs substantial strengthening. If the nations of the world will make greater use of it and broaden its resources, the United Nations will gain some strength. But revisions and changes in organization and procedure are required for it to become fully effective as a mechanism to handle global problems.

If, during your visit here, you assess the situation similarly, what should we do about it? Stung by the Taiwan defeat, critics of the United Nations are offering many wild proposals: cut our contribution, withdraw, get the U.N. out of the U.S. and the U.S. out of the U.N.

Such reactions are quite irresponsible. It is my recommendation that we take stock and recognize the need for global problem-solving mechanisms that work. We must stop badgering the United Nations and start strengthening it and using it. To cop out or shrink back into isolation is no longer an alternative.

It is time for reform, not revenge. It is time to promote and achieve a United Nations more adequate to serve man as he faces the confusion of complex global problems.

The times call on us to think big, stand tall, and live up to our heritage. Until we do, there is little hope for a sane, sound world order that enhances secure peace with freedom, justice, and progress. To refer to a song from "The Man From LaMancha" seems fitting.

To dream the impossible dream
This is our quest
To strive with our last ounce of courage
To reach the unreasonable stars

An impossible dream? Yes—unless we strive mightily with our last ounce of courage to reach the unreachable stars.

PARTICIPANTS

Mr. Lloyd R. Armour, Associate Editor, The Nashville Tennessean, Nashville, Tennessee.

Mr. James P. Brown, Editorial Board, The New York Times, New York, New York.

Mr. Richard B. Childs, Editor of the Editorial Page, The Flint Journal, Flint, Michigan.

Mr. Robert Estabrook, The Lakeville Journal, Lakeville, Connecticut.

Mr. Krishna K. Gaur, Editorial Writer, News-Journal, Lakeville, Connecticut.

Mrs. Joy Gerville-Reache, Christian Science Monitor, Washington, D.C.

Mr. Willis Harrison, Assistant Editor, Evening and Sunday Bulletin, Philadelphia, Pennsylvania.

Mr. E. J. Hodel, Editor, Beckley Post-Herald, Beckley, West Virginia.

Mr. John B. Johnson, Editor and Publisher, Watertown Daily Times, Watertown, New York.

Mr. John J. Kerrigan, Associate Editor, Trenton Times Newspapers, Trenton, New Jersey.

Mr. Charles King, Associate Editor, The Ottawa Citizen, Ottawa, Ontario, Canada.

Mr. Meliton Luna, St. Louis, Missouri.

Mr. William Lyttle, Editorial Writer, The Spectator, Hamilton, Ontario, Canada.

Mr. Chuck Moore, Third World News, New York, New York.

Mr. Harold R. Piety, The Journal Herald, Dayton, Ohio.

Mr. Frank B. Rosenau, Editorial Writer, The New Haven Register, New Haven, Connecticut.

Mr. Charles Saterlee, Editorial Writer, The Tulsa Tribune, Tulsa, Oklahoma.

Mr. Joseph Shoquist, Managing Editor, The Milwaukee Journal, Milwaukee, Wisconsin.

Mrs. Adele Vincent, Associate Editor, The Courier-Journal and Louisville Times, Louisville, Kentucky.

Mr. Edward A. Walsh, Journalism Professor Emeritus, Department of Communications, Fordham University, Bronx, New York.

Mr. Robert J. White, Minneapolis Tribune, Minneapolis, Minnesota.

Mr. William J. Woestendiek, Editor and Publisher, Colorado Springs Sun, Colorado Springs, Colorado.

Mr. Jack M. Smith, Executive Director, The Stanley Foundation.

Dr. John R. Redick, Research Associate, The Stanley Foundation.

* Kathleen Teltsch, "In Hard Times U.N. is Boon to the City," New York Times, Monday, November 22, 1971, p. 1.

HOUSE OF REPRESENTATIVES—*Monday, July 24, 1972*

The House met at 12 o'clock noon.

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

The Lord God is a sun and shield; the Lord will give grace and glory; no good things will He withhold from them that walk uprightly.—Psalm 84: 11.

O God and Father of us all, with the coming of a new day we again bow at the altar of prayer to offer unto Thee the devotion of our spirits.

"Spirit of God, descend upon our hearts;
Wean them from earth, through all our pulses move;
Stoop to our weakness, mighty as Thou art,
And make us love Thee as we ought to love."

May we go into the hours of this day with eager minds and earnest hearts, fortified by faith, heartened by hope, and alive with love.

We pray for our beloved country. With gratitude do we remember the faith and fortitude of our forefathers who worked so hard to make the dream of freedom a blessed reality in our land. May we with the same faith and the same fortitude continue to labor to make freedom and justice and good will living realities in our own day.

In the spirit of Him who set men free, we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

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

H.R. 7130. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes; and

H.R. 10858. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Pueblo de Acoma in Indian Claims Commission docket No. 266, and for other purposes.

The message also 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 Senate to the bill (H.R. 13435) entitled "An act to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior."

The message also announced that the Senate had passed a bill and point resolutions of the following titles, in which the concurrence of the House is requested:

S. 3824. An act to authorize appropriations for the fiscal year 1973 for the Corporation for Public Broadcasting and for making grants for construction of noncommercial educational television or radio broadcasting facilities;

S.J. Res. 193. Joint resolution to redesignate the area in the State of Florida known as Cape Kennedy as Cape Canaveral; and

S.J. Res. 254. Joint resolution to authorize the printing and binding of a revised edition of Senate Procedure and providing the same shall be subject to copyright by the author.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON AGRICULTURE

The SPEAKER laid before the House the following communication from the

chairman of the Committee on Agriculture, which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

Washington, D.C., July 20, 1972.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture today considered and unanimously approved the work plans transmitted to you by Executive Communication and referred to this Committee. The work plans are:

WATERSHED, STATE, AND EXECUTIVE COMMUNICATION

Big Creek, Kansas, 1735, 92d Congress.
North Sector Upper Walnut, Kansas, 1944, 92d Congress.
Red Lick Creek, Kentucky, 1735, 92d Congress.
Sweetwater Creek, Tennessee, 1944, 92d Congress.
Union Creek, South Dakota, 1944, 92d Congress.
West Carroll, Louisiana, 1944, 92d Congress.
Winnebago-Bean Creek, Nebraska, 1735, 92d Congress.

Yours sincerely,
W. R. POAGE, *Chairman.*

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 14108, NATIONAL SCIENCE FOUNDATION AUTHORIZATION

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint two additional managers on the part of the House to the conference on the disagreeing votes of the two Houses on the bill (H.R. 14108) to authorize appropriations for activities of the National Science Foundation, and for other purposes.

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

There was no objection.

Th SPEAKER. The Chair appoints as additional managers on the part of the House at the conference on the bill H.R. 14108 the following Members: Mr. SYMINGTON of Missouri, and Mr. MOSHER of Ohio.

The Clerk will notify the Senate of the action of the House.

CONFERENCE REPORT ON H.R. 11350, DUES FOR MEMBERSHIP IN INTERNATIONAL CRIMINAL POLICE ORGANIZATION

Mr. EDWARDS of California submitted the following conference report and statement on the bill (H.R. 11350) to increase the limit on dues for U.S. membership in the International Criminal Police Organization:

CONFERENCE REPORT (H. REPT. No. 92–1233)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11350) to increase the limit on dues for United States membership in the International Criminal Police Organization, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3 and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "$80,000"; and the Senate agree to the same.

DON EDWARDS,
JOHN CONYERS,
CHARLES E. WIGGINS,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
SAM J. ERVIN, Jr.,
ROMAN L. HRUSKA,
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 amendments of the Senate to the bill (H.R. 11350) to increase the limit on dues for United States membership in the International Criminal Police Organization, 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 purpose of H.R. 11350 is to provide authorization for the payment by the United States of its dues for participation in the International Criminal Police Organization.

Since the passage of this measure by the House on November 15, 1971, the United States has fallen into arrears with respect to an additional year's dues. Senate amendments numbered (2) and (3) provide authorization for this additional year. Therefore the committee of conference recommend that the House recede from its disagreement to the Senate amendments numbered (2) and (3).

With respect to the dues for calendar year 1972 and for future years, H.R. 11350 as passed by the House amended the Act of June 10, 1938 (22 U.S.C. 263a) to increase the authorization for annual dues to $55,000. Senate amendment numbered (1) would have authorized annual dues of $100,000 in anticipation of future increases.

Subsequent to the passage on April 20, 1972, by the Senate of H.R. 11350 with amendments, the Executive Committee of the International Criminal Police Organization voted to recommend an increase of 38.57% in all member contributions. It is anticipated that this recommendation will be accepted by the membership. Under the provisions of the recommended increase, the United States contribution (at the current April official exchange rate of .2606 U.S. dollars to the Swiss Franc) would amount to $75,840. The Committee of Conference recommend that, to provide authorization for payment of these dues, while at the same time providing an additional cushion to account for international monetary fluctuations, the House agree to Senate amendment numbered (1) with the following change: in place of $100,000, insert $80,000.

DON EDWARDS,
JOHN CONYERS,
CHARLES E. WIGGINS,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
SAM J. ERVIN, Jr.,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

INDIANA DUNES NATIONAL LAKESHORE

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

Mr. ROUSH. Mr. Speaker, I rise today to introduce a bill that would amend Public Law 89–761, "an act to provide for the establishment of the Indiana Dunes National Lakeshore and for other purposes." My amendment would simply change section 10 to increase the authorization ceiling by the amount necessary to complete purchase now 6 years after the initial authorization.

Earlier this year I intended to introduce this legislation, but the National Park Service was unable at that time to give me a definite figure as to the amount that would be needed to finish the purchase of the remainder of land authorized under the 1966 Indiana Dunes National Lakeshore bill—some 15 percent of the total. I am happy to report that I have today received confirmation of a specific figure in the amount of $4,636,500. Thus the authorization ceiling should be amended from $27,900,000 to $32,536,500. That is what this bill proposes.

It is very important and necessary that we make available to the Department of the Interior the funds that are necessary to carry out the mandate of the Congress to establish this unique urban-surrounded park and to fulfiill that 6-year-old promise to the people of the Midwest who are waiting for the completion of land purchase and the actual development of this national lakeshore.

I hope that action will be taken on this proposal as soon as possible, certainly before the closing of this 92d Congress.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. 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. 277]

Abourezk	Diggs	Link
Addabbo	Dowdy	Long, La.
Alexander	Downing	Lujan
Anderson, Calif.	Dulski	McCloskey
	Edmondson	McClure
Anderson, Tenn.	Erlenborn	McDonald, Mich.
	Evins, Tenn.	
Badillo	Fish	McEwen
Baring	Flynt	McKay
Belcher	Ford, William D.	McKevitt
Biaggi		McKinney
Blackburn	Frelinghuysen	Mailliard
Blanton	Fulton	Mathis, Ga.
Blatnik	Gallagher	Matsunaga
Boggs	Gettys	Mayne
Bolling	Gray	Melcher
Broomfield	Green, Pa.	Metcalfe
Byrne, Pa.	Griffiths	Mikva
Camp	Hagan	Mills, Ark.
Casey, Tex.	Halpern	Minish
Chamberlain	Hanley	Mink
Chappell	Harrington	Monagan
Chisholm	Harsha	Moorhead
Clark	Hawkins	Nedzi
Clay	Hébert	Obey
Cleveland	Heinz	O'Hara
Collier	Helstoski	Passman
Colmer	Hutchinson	Pelly
Conyers	Johnson, Pa.	Pepper
Cotter	Jones, Tenn.	Pettis
Davis, Ga.	Kastenmeier	Podell
Dellums	Landgrebe	Powell
Devine	Landrum	Price, Tex.

Pucinski	Rostenkowski	Stephens
Purcell	Roy	Stuckey
Quillen	Roybal	Talcott
Railsback	Ruppe	Teague, Calif.
Rarick	Ryan	Teague, Tex.
Reid	Sandman	Terry
Riegle	Scheuer	Thompson, N.J.
Robison, N.Y.	Springer	Thomson, Wis.
Rodino	Staggers	Vander Jagt
Rooney, N.Y.	Steele	Whalley
Rosenthal	Steiger, Wis.	Wolff

The SPEAKER. On this rollcall 304 Members have answered to their names, a quorum.

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

APPOINTMENT OF CONFEREES ON H.R. 15418, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1973

Mrs. HANSEN of Washington. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15418) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1973, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentlewoman from Washington? The Chair hears none, and appoints the following conferees: Mrs. HANSEN of Washington, and Messrs. OBEY, YATES, GALIFIANAKIS, MAHON, MCDADE, WYATT, DEL CLAWSON, and BOW.

APPOINTMENT OF ADDITIONAL CONFEREE ON S. 635

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the gentleman from Idaho (Mr. MCCLURE) be excused as a conferee on S. 635 and that the Speaker be authorized to appoint a Member to fill the vacancy.

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

There was no objection.

The SPEAKER. The Chairman appoints the gentleman from Michigan (Mr. RUPPE) to fill the vacancy, and the Senate will be notified of the action of the House.

CONFERENCE REPORT ON H.R. 13435, ADDITIONAL UPPER COLORADO RIVER BASIN AUTHORIZATION

Mr. ASPINALL submitted the following conference report and statement on the bill (H.R. 13435) to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior:

CONFERENCE REPORT (H. REPT. No. 92-1234)

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13435) to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the bill, and agree to the same.

WAYNE N. ASPINALL,
JAMES A. HALEY,
HAROLD T. JOHNSON,
CRAIG HOSMER,
SHERMAN P. LLOYD,
Managers on the Part of the House.

CLINTON P. ANDERSON,
HENRY M. JACKSON,
FRANK E. MOSS,
QUENTIN N. BURDICK,
LEE METCALF,
GORDON ALLOTT,
LEN B. JORDAN,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13435) to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior, submit this joint statement in explanation of the differences between the House-passed bill and the Senate amendment in the nature of a substitute, and in explanation of the recommendation agreed upon in the accompanying conference report.

DIFFERENCES IN THE HOUSE AND SENATE VERSIONS

The Senate version is identical to the measure which was initially recommended by the Department of the Interior. It would authorize an increase in appropriations of $610 million to complete the work originally authorized by the Colorado River Storage Project Act of 1956 (70 Stat. 105). The House version incorporates revised language which has the substantive effect of limiting the increase in authorized appropriations to $352,195,000 for Fiscal Years 1973 through 1977 rather than providing the full authorization of $610 million estimated to be necessary to complete the work.

RECOMMENDATION

The conferees agreed to the Senate language. A detailed annual report to the Congress on progress on the construction and operation of the Colorado River Storage Project and Participating Projects is required by Section 6 of the 1956 Act. The Conferees believe that the annual report will provide an adequate occasion and basis for legislative oversight of the completion of construction. The provision in the House version, therefore, which would require an additional authorization of construction funds for Fiscal Years 1978 and beyond is not necessary to accomodate legislative oversight.

WAYNE N. ASPINALL,
JAMES A. HALEY,
HAROLD T. JOHNSON,
CRAIG HOSMER,
SHERMAN P. LLOYD,
Managers on the Part of the House.

HENRY M. JACKSON,
CLINTON P. ANDERSON,
FRANK E. MOSS,
QUENTIN N. BURDICK,
LEE METCALF,
GORDON ALLOTT,
LEN B. JORDAN,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 3284, FURTHER MISSOURI RIVER BASIN AUTHORIZATION

Mr. ASPINALL submitted the following conference report and statement on the bill (S. 3284) to increase the authorization for appropriations for completing the work on the Missouri River Basin by the Secretary of the Interior:

CONFERENCE REPORT (H. REPT. No. 1235)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3284) to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior, 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 to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment insert the following:

"That there is hereby authorized to be appropriated the sum of $114,000,000 to provide for completion of work in the Missouri River Basin to be undertaken by the Secretary of the Interior pursuant to the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law 534, Seventy-eighth Congress), as amended and supplemented by subsequent Acts of Congress, plus or minus such amounts, if any, as may be required by reason of changes in construction costs, as indicated by engineering cost indices applicable to the type of construction involved. No part of the funds hereby authorized to be appropriated shall be available to initiate construction of any unit of the Pick-Sloan Missouri Basin program, whether or not included in said comprehensive plan; nor for prosecution of the Garrison diversion unit, reauthorized by the Act of August 5, 1965 (79 Stat. 433)."

And the House agree to the same.

WAYNE N. ASPINALL,
JAMES A. HALEY,
HAROLD T. JOHNSON,
CRAIG HOSMER,
JOHN N. CAMP,
Managers on the Part of the House.

HENRY M. JACKSON,
CLINTON P. ANDERSON,
FRANK E. MOSS,
QUENTIN BURDICK,
LEE METCALF,
GORDON ALLOTT,
LEN B. JORDAN,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

JOINT 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. 3284, to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying Conference Report.

The House amendment consisted of striking all after the enacting clause and substituting in lieu thereof complete new text which varies from the Senate bill in two significant particulars. With respect to the first difference, the Committee of Conference accepted the Senate version which authorizes $114,000,000 to be appropriated for completing work in the Missouri River Basin, rather than the House language which would have authorized $94,000,000 with which to continue such work for a period of five years. The second difference between the House and Senate versions consists of language appearing in the House version to emphasize that the Garrison Diversion Unit, which has separately authorized appropriations authority, shall not participate in the funds

authorized to be appropriated by this legislation. The Committee on Conference accepted the House language.

The House also amended the title of the bill. The Committee of Conference retained the original title as being more appropriate in light of the other conference actions.

WAYNE N. ASPINALL,
JAMES A. HALEY,
HAROLD T. JOHNSON,
CRAIG HOSMER,
JOHN N. CAMP,
Managers on the Part of the House.

HENRY M. JACKSON,
CLINTON P. ANDERSON,
FRANK E. MOSS,
QUENTIN BURDICK,
LEE METCALF,
GORDON ALLOTT,
LEN B. JORDAN,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 56, NATIONAL ENVIRONMENTAL DATA SYSTEM

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 56) to amend the National Environmental Policy Act of 1969, to provide for a National Environmental Policy Act of 1969, to provide for a National Environmental Data System, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees: Messrs. GARMATZ, DINGELL, and PELLY.

FRANCIS C. TURNER RESIGNS

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

Mr. JONES of Alabama. Mr. Speaker, the retirement of Mr. Francis C. Turner as Federal Highway Administrator is a great loss to the Government and the people of the United States.

Frank Turner is one of the most competent and capable administrators I have had the privilege of working with in the Federal Government. Years ago, he completely won me over with his thoroughness, his knowledge of road matters, his honesty, and his dedication to the highest aspirations of public service.

My opinion of his considerable abilities has been shared by others. He was appointed by Presidents of different political parties to highest stations within Federal highway programs.

He has been the recipient of numerous honors and awards. He has been a frequent participant and speaker at meetings of citizens involved in highway affairs. He has earned the respect and admiration of all who are acquainted with the Nation's roads programs.

Vast changes have resulted in the Federal highway systems during the 43 years that Frank Turner has been engaged in roads programs. The great advances of the past two decades have been guided to realization by his skills and efforts.

He is the foremost example of a dedicated and conscientious public servant.

Those of us who have worked with him in the shaping of legislation will miss his valuable counsel.

As he leaves the Federal Highway Administration for a more leisurely life, he has my sincere best wishes for every happiness in the years ahead.

THE HONORABLE WILLAM F. RYAN

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

Mr. RANGEL. Mr. Speaker, I know that all Members of Congress join me in praying for the rapid recovery of our dear and distinguished colleague, WILLIAM F. RYAN, who has just undergone surgery.

BILL RYAN has been one of the outstanding national leaders in the struggle to end the senseless war in Southeast Asia and to reorder our national priorities. In his 12 years in the House of Representatives, BILL RYAN has put his mark on some of the most important legislation of our times. The children of New York City in particular owe BILL RYAN a deep debt of gratitude for his fight for the Lead-Based Paint Poisoning Prevention Act which, for the first time, committed this Nation to ending a direct threat to the lives of millions of disadvantaged urban children. His energy, insight, and commitment have been major forces leading Congress to face its moral responsibilities.

Get well, BILL. We need you here.

POLICE SALARIES

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

Mr. DICKINSON. Mr. Speaker, last week the House of Representatives approved legislation raising starting salaries for District of Columbia policemen and firemen from $8,500 to $10,000 per year. I supported that bill, for I sincerely feel we ought to adequately compensate those men and women who daily risk their lives in defense of society.

However, it distressed me greatly last week to learn that the Pay Board had denied an application from the city of Montgomery, Ala., to raise the salaries of its employees—including policemen and firemen—by 13.4 percent. Instead, the Pay Board reduced the raises to 7 percent. The starting salary for a policeman in Montgomery, incidentally, Mr. Speaker, is $5,980 a year.

City employees of Montgomery—classified and unclassified—are among the most dedicated in the Nation, but they have not had a merit pay raise for 3 years—mainly because the city has faced severe financial hardships over the past few years—and must feel they have been shortchanged.

There are indications that the Pay Board did not have sufficient information to justify a 13.4-percent increase for Montgomery's employees and that the city will ask the Board to reconsider its decision. If this is the case, I hope the Pay Board will recognize the gravity of this situation and grant these modest increases. After all, Mr. Speaker, although public service has its rewards, we will not retain a dedicated civil servant force unless the compensation is adequate and just.

COMPENSATION FOR LOSSES RESULTING FROM THE BAN ON CYCLAMATES

Mr. SISK. Mr. Speaker, I call up House Resolution 1024 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1024

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. 13366) to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed or packaging, labeling, and other materials had been prepared in good faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

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

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

Mr. Speaker, House Resolution 1024 provides an open rule with 1 hour of general debate for the consideration of H.R. 13366, compensation for losses resulting from the ban on cyclamates.

The purpose of H.R. 13366 is to authorize the court of claims to determine and enter judgment therefor the amount of losses sustained by growers, manufacturers, packers, and distributors resulting from the Government's ban on cyclamates in October 1969. Relief is restricted to U.S. claimants.

Imposition of the ban came without any warning and it is felt that the most equitable way of providing relief to those who suffered losses is by judicial determination of the claims.

Suits for relief must be instituted within 1 year after enactment of the legislation and judgments would be paid in the usual manner.

Potential cost of the legislation is esti-

mated at between $100 million and $120 million.

Mr. Speaker, I urge the adoption of House Resolution 1024 in order that the legislation may be considered.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. DELANEY), a member of the committee, and I reserve the balance of my time.

Mr. DELANEY. Mr. Speaker, I am strongly opposed to this bill, strongly opposed to the rule, and I ask that the rule be defeated.

This measure would compensate industrial cyclamate users for losses claimed as a result of the chemical being removed from the so-called GRAS—generally regarded as safe—list.

This Federal list was never intended to be a guarantee that certain compounds were safe.

It served as a notice that the substances listed were not required to be tested by the Government, and those using them did so at their own peril.

Public warnings as to the hazards of the unrestricted use of this chemical were repeatedly announced by scientific experts long before it was removed from the GRAS list.

In 1962, the National Research Council stated:

> The priority of public welfare over all other considerations precludes . . . the uncontrolled distribution of foodstuffs containing cyclamates.

Similar additional warnings were sounded in 1967, 1968, and early 1969. Despite these warnings, the cyclamate industry increased production and use of these hazardous chemicals from 5 million pounds in 1963 to 17 million pounds in 1969.

Last year, the House Subcommittee on Intergovernmental Relations reported that cyclamates were being marketed and sold a year and a half after they were banned by the Secretary of Health, Education, and Welfare.

Not only did businesses using this substance fail to exercise prudent judgment in evaluating its safety, but they demonstrated a callous indifference to the health of the consuming public.

Cyclamate sweeteners were banned in 1969 because of the so-called Delaney anticancer law, which prohibits the use of food additives shown to cause cancer in man or animal, either when ingested, or after appropriate scientific tests.

Backers of this legislation estimate awards to industry would amount to some $120 million. In my view, it could be much greater.

Recently, the Environmental Protection Agency took action to bar further use of DDT, except for limited public health purposes. The Food and Drug Administration is moving against saccharin, and has begun an intensive review of the entire GRAS list.

If compensation is awarded to cyclamate users, businesses utilizing other outlawed chemicals can be expected to make massive claims against the taxpayers.

While the concern of this legislation is some monetary loss claimed by industry, we must keep uppermost the fact that cyclamates have been shown to cause perhaps the most devastating and deadly disease known to man.

At a time when we have just authorized a debt limit increase to $450 billion, we surely cannot approve this totally unjustified compensation to businessmen for endangering the consuming public. I urge you to vote down the rule.

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

Mr. speaker, on the rule, House Resolution 1024 provides for 1 hour under an open rule for the consideration of H.R. 13366, a bill which is entitled "Compensation for Losses Resulting From the Ban on Cyclamates."

As I understand it, the purpose of the bill is to grant jurisdiction to the court of claims to render judgment upon any claim for losses sustained by domestic growers, manufacturers, packers, or distributors as a result of the Government's ban on cyclamates.

These claims arose out of the announcement by the Food and Drug Administration on October 18, 1969, that cyclamates would be removed from the list of products generally recognized as safe for consumption.

Under this bill the court of claims is the one that would determine the amount of loss. The claimants are to be reimbursed for direct and indirect costs and damages, but not for lost profits.

All claims would have to be initiated within 1 year after the enactment of the legislation.

The cost estimate in the report is given as between $100 million and $120 million.

Of the executive agencies commenting on similar bills, the Office of Management and Budget, the Department of Justice, and the Department of Health, Education, and Welfare have no objection to the legislation, as I understand it. The Department of Commerce and the Department of Agriculture favor the legislation.

Mr. Speaker, I understand there will be opposition, and a fight on the rule. Comment was made that this is similar to the bill on which the rule was defeated just shortly before the recess, referred to as the predator bill. In my opinion, there is quite a difference between the two bills, because this is a one-time bill for damage, where the court of claims will determine the damage, and the other bill, as to which we voted down the rule, was open end, with no amount, and, as we know, would have set a very bad precedent.

The comment was made that in this instance if the organization, the grower, the producer or the distributor, have written off the loss on his tax return, that if he were then paid, he would be getting back double indemnity so to speak. In my opinion, that is not correct. If the loss had been written off the tax return, if they had filled a claim and if they received money, it will then be profit, and they will have to pay on that profit the same as on any other profit.

Mr. Speaker, I urge the adoption of this rule and reserve the balance of my time.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Speaker, the minority report on this bill speaks of it as opening up a Pandora's box, but it does not say where Pandora's box is located. It is next door to the White House at 15th and Pennsylvania Avenues NW. The Treasury of the United States is Pandora's box. Once you open it up for a hundred million dollars, or perhaps several times that amount for indemnities to the food industry and other industries which used an ingredient found to cause cancer in animals, you are inviting every industry in this country to come in and ask to open the same cash box for them, too—whenever there is a product taken off the market as unsafe.

Just imagine the fiscal consequences this bill on the cyclamates losses invites:

For years, we have worried over the use of diethylstilbestrol—DES—in animal feeds. It causes cancer. The law says it cannot be used if residues of the hormone are found in the tissues or organs of the carcass of a meat animal. The Agricultural Department is now finding residues of DES in beef livers with increasing and alarming frequency. The use of DES may have to be stopped. Will we then have to pay for all of the beef cattle which have been fed with DES? Up to now, it has been used not with the Government's blessing but with its tolerance. The same was true of the cyclamates. No Government agency ever told the food manufacturers cyclamates were good for people and should be used. Instead, there was just no clear proof it was dangerous. Hence, as a food chemical in use before 1958, it was put on the list as "generally regarded as safe."

But it was never proved safe as all food chemicals introduced after 1958 must be proved safe. If it had been tested and approved under the 1958 act, the story might be different. It was tolerated as probably safe until careful testing established it was carcinogenic.

We once indemnified the mink raisers because they had—on advice of the Department of Agriculture—used hormone-injected chicken necks to feed their animals. The necks containing the stilbestrol pellets could not be sold as human food, but the Department of Agriculture advised mink raisers to use this product. It was a disaster. The Government in that case was at fault. The indemnifications was justified. But who in any Government agency ever issued any bulletins urging soft drink manufacturers or food manufacturers to use more cyclamates? No one.

The cyclamates were used as a competitive risk. The artificial sweetener turned sour. Why should the taxpayers pick up the tab—no pun intended?

This bill assumes that any product which the Government allows to be sold, while there is insufficient evidence it is unsafe, has therefore been held by the Government to be safe—an assumption which would make the Government financially responsible for losses to industry resulting from the subsequent

banning of any product for safety reasons.

Are we to indemnify Detroit for repairing or rebuilding cars with previously undetected safety defects? Are we to indemnify a cosmetic manufacturer or distributor who puts out a product later found to be dangerous? How about the toy manufacturers or dealers who got caught by the Toy Safety Act with products they cannot now legally sell. Should they all be indemnified? Aren't they just as deserving? What about banned pesticides?

The Members should be warned, Mr. Chairman: more of the food ingredients on the generally regarded as safe list are likely to be delisted as testing methods improve. This has been the pattern ever since 1958, when the Food Additives Act was passed. Are you ready to open up Pandora's box next to the White House—the U.S. Treasury—every time this happens? Are you prepared to pay all losses resulting from the possible banning of DDT and products containing it? What if sacchrine is found unsafe? Do we repeat then what is being done in this bill?

I want to make one final point about the cyclamates. They gave diabetics a long-denied opportunity to enjoy sweets. No other artificial sweetener on the market has as good a taste. The others often leave an unpleasant aftertaste. Diabetics are truly disadvantaged by removal of the cyclamates. I am sorry about that. But I am amazed at how many people were buying cyclamate soft drinks and other foods for their children despite the clear warning on the label that it should be used only by those who must restrict their intake of ordinary sweets.

Industry promoted the cyclamates as a health food, with commercials extolling the good taste of the products even for those who did not have to reduce, including children. Now to anyone who thought about it that warning on the label should have meant something. It was a required warning, based on official government fears that maybe the cyclamates should not be used by those who could tolerate ordinary sweets. There was no proof, but there were those official fears, expressed in the form of a required label warning. The manufacturers who had to place that warning on their products knew they were using an ingredient which was under suspicion, even though "generally regarded as safe."

The ban on the cyclamates may have come as a shock to the industry—financial and otherwise—but it did not come as a complete surprise. Not out of the blue. They took their chances. Now after they have written off their losses on their taxes, this bill makes them a gift, only part of which will come back in the form of revised tax assessments. Knowing how industry accountants can figure, it is a sure thing the tax adjustments which would have to be paid out of the proceeds of this bill will not begin to equal the tax deductions which were claimed when the products were banned. Under the tax laws, the Government and the taxpayers have already underwritten about half of the losses to the cyclamate industry; this bill pays out the other half. The legislation should be defeated, unless we are prepared to do as much for every industry facing the prospect of a similar situation.

We probably can find enough money in the Treasury to pay everybody who suffers a loss by reason of governmental actions to protect the public from unsafe products, but it probably would not leave much for the Pentagon to spend. Today the cyclamates; tomorrow who knows what?

Mr. SISK. Mr. Speaker, I yield 4 minutes to the gentleman from New York, (Mr. CELLER).

Mr. CELLER. Mr. Speaker and Members of the House, I am opposed to this bill, and I therefore oppose the rule.

This is a case where businessmen skate on thin ice, and they tumble in, and then they expect the Government to fish them out. This is nothing but a boondoggle. It is very much like the bill we rejected about 10 days ago, the predator indemnities bill. There is no whit difference between this bill and that bill. Just as we rejected that bill, so we must reject this bill.

The Government is right in banning the use of cyclamates after laboratory testing established that they cause cancer in animals. There were numerous danger signals flashed upon the cyclamate users, yet they continued to use this sugar substitute, and they utterly disregarded them and thumbed their nose at these warnings. There were any number of these warnings, yet they paid not a jot nor jit of attention to these warnings, and continued to reap profits from the use of cyclamates.

The Government had to, and was compelled to take this ingredient off the market because there was manifest danger to human health in the use of cyclamates.

Now, are we going to reward these people for using something which has been banned by the Government, where the Government and other agencies, authentic agencies, indicated to these users time and time again that they were treading on dangerous ground? And they disregarded all these warnings and they said, "We will take action after the ban is issued only on condition that you reimburse us." Now, how are we going to reimburse them? The bill is most unusual, and as a lawyer I can tell you it is a most unusual method of payment. This is not an adversary proceeding, there is nobody appearing in opposition to the claimant. The claimant comes before the court of claims and says he relied on "good faith"—the words "good faith" are used, but no criteria in the bill itself tells us as to what is meant by good faith in the framework of the legislation, so they can prove everything.

Also the words "indirect costs" are used to describe the liability of the Government. "Indirect costs" are to be reimbursed by the Government. What are indirect charges? They could be warehouse costs, general overhead costs, advertising costs—it is breathtaking, the breadth of what is meant by "indirect costs"—everything almost but the kitchen sink can be put into the framework of indirect costs.

The claimant goes before the court of claims and says, "These are my damages." No one will be able to challenge Government liability. This bill settles that question.

This is simply and only a blank check that we give to these claimants to bring to the court of claims, and the court of claims then honors these blank checks. That is the sum and substance of this legislation.

I tell you this as a lawyer of many years of experience, from the reading of this bill, that it is a very dangerous precedent that we are calling for if we adopt this rule and pass this bill.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Speaker, should the taxpayers pay one, two, three, four or five hundred million dollars, or five cents, to get the food producers to stop putting a carcinogenic in our food supply? Must we pay industry to stop marketing a product that it has developed for good economic reasons, and inserted into our food supply for profit, and then turns out to be dangerous to health? Now let us explode a couple of myths. You know, the public is beginning to discover that this bill is pending here, and some of you will have received in the mail this morning, and will have time to read it perhaps before the final vote, the attitude HEW Secretary Robert H. Finch took in April 1970 when the bill was proposed. I have heard it said here that the ban came without warning. All you have to do is read the Federal Register—HEW took it off the GRAS list—they put it on and took it off. They gave 2½ months to the beverage people to dispose of their supplies. That was not without warning. They gave 3½ months to the food people and they gave 8½ months to the drug people to dispose of their supplies. That is in the Federal regulation. What are we beginning to discover here? Mr. Finch says that industry sources tell him the cost of this bill is a quarter to a half billion dollars. Industry sources told us in committee that it was one hundred million to one hundred twenty million dollars. So we have a situation where the Government is admittedly without fault—admittedly without fault. The propriety of the Government action removing this from the food supply is admitted and endorsed, even by the claimants—they have to—the law required it. Public health required it. But what do we hear about that? Oh, they were really not dangerous to health. The tests were not valid, because they used, it is contended, 300 times the amount of cyclamates that you would put in to a human being. The cold light of day comes and Robert Finch in his letter of April 1970, says that they used eight and one-third times as much in a rat as they might have put in a human being while 100 times is an accepted standard to determine the carcinogenic factor in food additives.

You know, some of us say that we really do not believe cyclamates are dangerous. A lot of people apparently feel that way. But that is not the issue. Let us get to the law and let us get to the facts. It is admitted that the law, spe-

cifically the Delaney amendment, required that FDA ban cyclamates.

The Government was without fault. It acted properly. It acted pursuant to its duty. As Secretary Finch said:

In the absence of fault, the withdrawal of a Government clearance on safety grounds should be regarded, in our judgment, as a normal hazard of doing business.

Mr. Speaker, I wish to read into the RECORD at this point the entire letter written by Secretary Robert H. Finch on April 9, 1970, to the Honorable Robert P. Mayo, Director, Bureau of the Budget, Washington, D.C. 20503:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
April 9, 1970.

Hon. ROBERT P. MAYO,
Director, Bureau of the Budget
Washington, D.C. 20503

DEAR MR. MAYO:

This is in response to Mrs. Sweeney's request of March 10, 1970, for a report on a draft bill proposed by the National Canners Association to vest jurisdiction in the Court of Claims "to render judgment upon any claim for damages sustained by persons, associations, or corporations that had products, ingredients, packaging or labeling rendered unmarketable, unusable, or less valuable" as a result of the October 18 delisting of cyclamic acid and its salts. The delisting (that is, the removal of cyclamates from the so-called "GRAS" list of substances generally recognized as safe for use in food) was ordered by the Secretary pursuant to § 409(c)(3)(A) (the Delaney proviso) of the Federal Food, Drug, and Cosmetic Act, which prohibits him from deeming as safe for use as an additive to food any substance found to induce cancer in man or animal.

The implications of the bill are far-reaching and its enactment would inevitably be persuasive precedent for a damage claim whenever the Government, for safety reasons, were to require that a product previously generally recognized as safe or otherwise cleared for use be withdrawn or withheld from the market. If the Administration is willing to see Federal indemnification in this particular case, it should be willing to provide for it in analogous cases and develop general legislation to that effect. Enactment merely of this bill would be discriminatory as between its beneficiaries and others adversely affected by withdrawal of the Government's recognition or clearance.

In this regard, we understand that commercial users of cyclamates (of which the canners are but one category) claim to have lost between one-quarter and one-half billion dollars as a result of the delisting. The current review of the GRAS list, which the President noted in his October 30 Consumer Message (H.R. Doc. No. 91-188, p. 8) as having been undertaken at his request, may result in the delisting of additional additives to food, and thereby the generation of new losses to commercial interests.

However, in our view the case for Federal indemnification of these losses presented by the "National Canners Association Summary Position Paper" and the "Background Statement on Indemnification for Cyclamate Losses" accompanying the bill is not meritorious. As we understand that case it rests upon the proposition that, inasmuch as food processors have used cyclamates in "good faith reliance" on their GRAS listing (p. 5 of Background Statement), it "is totally inequitable for the industry to sustain the substantial out-of-pocket losses" that delisting has entailed (p. 7 of Background Statement). If delisting is required in the public interest "then it is only fair and equitable that the economic consequences of the actions be borne by the Government since industry's good faith reliance on the FDA's listing of cyclamate as safe and on the permitted use of cyclamate in some standardized food products was clearly justified." (p. 7, Background Statement). Supposed precedents for such indemnification are cited at pp. 8-9 of the Background Statement.

Before examining this position, we would point out one misconception of the Summary Position Paper and the Background Statement. Both documents were written under the misapprehension that cancer in test animals was produced only by their ingestion "of the cyclamates at very high levels". (p. 3, Background Statement). We presume that this misapprehension is based on the fact that the Secretary's decision of October 18, 1969 to take cyclamates off the GRAS list was based on cyclamate feeding tests on rats which showed bladder tumors when fed at a level said to be 50 times the maximum amount previously proposed for adult human consumption by the National Academy of Sciences and the World Health Organization. However, other cyclamates feeding tests on rats, analyzed thereafter, showed cyclamate-induced cancer on the bladder of a different strain of rats when fed at only 1/8 of the earlier dosage, *i.e.*, 8⅓ times the maximum tolerance level recommended for adult humans. (This was announced in a tape recording by Dr. Steinfeld, the Surgeon General, on which a story in the Washington Post for November 22 was based.) As of this writing, we are without information that a no-effect level has been found in cyclamate feeding tests for carcinogenesis. Were the Delaney proviso not law, a tolerance could, of course, be reasonably fixed only on the basis of a no-effect level. In the evaluation of the safety of noncarcinogenetic food additives, the usual safety factor is 100, although sometimes permitted to be in the 50-100 range, as applied to the maximum no-effect level.

With respect to the substance of the NCA position on indemnification, its principal weakness, in our judgment, is that the Government has taken no action which can reasonably be imputed to fault. This is recognized by the Background Statement, p. 9, where in connection with the discussion of a putative precedence for indemnification arising out of Federal compensation of dairy farmers for losses resulting from pesticide residues found in milk, it is observed that in "this situation, *as with use of cyclamates, losses clearly are not the 'fault' of* either *the Government* or the dairy farmers." (Emphasis added.) It is not suggested, for example, that the Government was in any way negligent in its original listing of the cyclamates upon which food processors have relied, or that such listing has been falsely represented by the Government as irreversible. In the absence of fault, the withdrawal of a Government clearance on safety grounds should be regarded, in our judgment, as a normal hazard of doing business.

The precedents cited by the National Canners Association are not apposite. Compensation paid by the Government in connection with the cranberry and stilbestrol incidents described on p. 8 of the Background Statement were by the Department of Agriculture under 7 U.S.C. § 612c, a program specifically enacted to encourage the exportation of agricultural commodities, the domestic consumption of such commodities, and the re-establishment of farmers' purchasing power. (See statement of purpose incorporated in the section.) No comparable programs exist, so far as we are aware, to support the food processing industry. The compensation of dairy farmers, referred to previously, occurred pursuant to section 331 of the Economic Opportunity Act of 1964 (42 U.S.C. § 2881), a section of that Act's title III, "Special Programs to Combat Poverty in Rural Areas." Compensation to the Mizokami brothers (Private Law 88-346, and *Mizokami* v. *United States*) involved a situation in which the Food and Drug Administration *erroneously* determined that spinach grown by the brothers was contaminated.

For the reasons stated, we would recommend that the bill not be approved for submission to the Congress.

Sincerely,

ROBERT H. FINCH,
Secretary.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in support of this legislation.

I cosponsored this proposal when it was first introduced during the 91st Congress, and last year I joined Congressmen SISK and GUBSER, along with a number of our colleagues in reintroducing the bill.

In a few months we will be marking the third anniversary of the cyclamate announcement by FDA and HEW. Cyclamates had been used commercially since 1950 and were placed on the so-called GRAS list—generally recognized as safe—by the Food and Drug Administration following the enactment of the food additive amendments to the law. They were authorized for use in foods and in April of 1969 the Food and Drug Administration further approved their use by publishing in the Federal Register proposed maximum total daily intake levels. With this accumulation of assurances from the Food and Drug Administration, the food industry continued to use cyclamates, but then, of course, the ax fell.

I am reminded of the hearings we had before our agriculture and consumer protection subcommittee. Commissioner Edwards appeared on behalf of the Food and Drug Administration and in a colloquy with the gentleman from Illinois which appears on page 301 of our hearings, I quoted from a press release of January 28 by Dr. Edwards as follows:

Saccharin has been widely used in the food supply for over 80 years without any evidence of human harm. The tentative adverse findings in rats occurred at a level roughly equivalent in humans to 875 bottles of a typical diet soft drink per day.

That points out how absurd a situation can develop from the Delaney amendment. I personally think it ought to be repealed and we ought to have something in lieu of it, probably spelling out some specific tolerances that are acceptable after research and an appropriate findings.

But here, as I have indicated to you, you have a Federal agency, the Food and Drug Administration, as late as 1969 publishing in the Federal Register what was permissible and it was on the strength of that that the food industry continued to do what they did.

So, personally, I think frankly we have an obligation here to indemnify those who suffered this loss.

When the announcement was made, the canning industry had just completed the annual seasonal pack, and they found themselves with an inventory for which they were unable to cover their costs. Bottlers and other manufacturers of dietetic and low-calorie products faced similar situations, and of course those food companies specializing in dietetic products were hit especially hard.

Many food industry people all across our country got caught in this pinch, from small grower cooperatives to the large, well-known food processors. And some of our Illinois companies suffered very serious losses.

The legislation before us would provide a basis for some of these people to seek financial relief from the Federal Government. The relief would be limited to recovery of the basic losses and damages sustained as a result of the Government's action, but would not provide for lost profits.

Very briefly, there are two points which I would like to especially emphasize here this afternoon. First, equity dictates that when the Federal Government, without warning, determines it necessary to protect the general public by taking an action such as that taken on October 18, 1969, the burden should be assumed by the general public and not solely by the adversely affected companies and farmers.

Second, there is ample precedent for indemnification of this kind. Many of my colleagues will surely recall the much-heralded cranberry incident, and then there have also been indemnities paid for poultry, milk producers, cheese processors and beekeepers. We are all familiar with the background of these indemnity programs.

I would just say, in conclusion, that this is equitable legislation, and deserves the support of my colleagues in the House.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, I want to at this time address myself to two issues that have been raised by the opponents to the bill. I am a supporter of the bill, a proponent of the bill. Those two issues involve the question as to whether or not the Government in fact has any liability in this instance in equity; the second issue involves the matter of damages, as to whether in fact there is an open door left to the claimants for any amounts that they seek to claim from the court.

The GRAS list was a voluntary act of the Government. It was not required by statute at all. The Government had no obligation whatsoever to step into this complex situation and represent to anybody that the substances on the GRAS list were generally recognized as safe.

Now, it has been suggested that what they really said was, "Use these substances at your peril." That simply is not so. There is absolutely no confirmation that the substances placed on the GRAS list were not placed there to give comfort and to give assurances to those who were using those substances that they were safe.

The hearing is replete with references by the Commissioner of the Food and Drug Administration, Mr. Edwards; by Mr. Gray, present Director of the Federal Bureau of Investigation who at that time was an Assistant Attorney General; and by the General Counsel for the Department of Commerce that says the GRAS list was compiled to give assurances to those who were relying on the use of those substances.

It is further said that although there were other motivations in the beginning, that was the primary, dominant motivation in including a substance on the GRAS list to give a user of that substance assurance that the Government at least believed it to be safe.

Well, once the Government without statutory duty involved itself in this position, the consequences of relying and misinforming or misleading anyone that followed its advice are consequences that in equity the Government ought to be required to assume.

Furthermore, the consequences are even more discernible than that. In April of 1969 when the Government was well aware that there was a problem with the use of cyclamates that did not involve the Delaney amendment at that moment in time, because it did not involve a carcinogenic condition; it involved a loosening of stools, a diarrhea condition, but they were so concerned with the use of cyclamates at that moment, in April of 1969, that they put out a warning that a 60-pound child should not have more than two bottles a day of soft drinks containing cyclamates.

Remember, they assumed the responsibility of representing to the public at large that substances contained on the GRAS list were reasonably safe and could be used without peril. They then went one step further when they found there was peril in the use of that substance, and they still left it on the GRAS list.

I asked the Commissioner of Food and Drugs why in God's name did they leave the cyclamates on the GRAS list when in April 1969 they knew there was a threat, although not a carcinogenic threat at that time, which was presented to the American people? The Administrator of the Food and Drug Administration said he was not there when it was done and he could not tell me why it was done. I asked him was it wrong? He said:

> Yes, it should have been taken off in April 1969.

Instead it was taken off in October 1969.

If it had been taken off in April 1969, the California claimants who represents 1,200 family farm growers who are in this bill to the extent of pressing a claim for $15 million would have assumed no loss whatsoever, because in April 1969 when the Government should have acted and failed to act, there was no crop being harvested. If the Government had acted in April 1969, before the harvest season that caught these canners and growers and cooperatives with 5 million cases of goods canned in cyclamates at the time of the ban on October 18, their claim would never have occurred.

Mr. Speaker, that was a concrete action of error in judgment on the part of this Government, and the consequences of that concrete action and error in judgment ought to be fully borne by the Government itself.

Damages are not subject to speculation. They must be carefully proven in court with no compensation for profits. In addition, Mr. Gray testified the FBI would audit every claim for accuracy.

Mr. SMITH of California. Mr. Speaker, I yield to the gentleman from California (Mr. DON H. CLAUSEN) such time as he may consume.

Mr. DON H. CLAUSEN. Mr. Speaker, those of us of the California congressional delegation who are most affected and familiar with this situation have held a number of meetings with pear growers and other fruit growers and cooperatives who have conveyed to us the genuine emergency conditions associated with the sudden FDA cyclamates ban.

The uniqueness of the situation and the reason for our request for this legislation is the seasonality of the industry. Harvesting time is dictated by the product not by HEW decisions in Washington.

Prior to the canning season the cooperatives and the canners involved checked with Federal regulatory agencies having the responsibility for marketing guidelines and found that it was permissible for canners to include cyclamates. There is absolutely no question of those involved adhering to the legal requirements of the regulatory agencies and this has been completely verified.

As a result of the timing of the ban, the seasonality of the industry and the perishability of the product, these growers are in an entirely different position from that of the soft drink bottling industry and others affected.

These small farmers stand to lose an estimated $7,000 per family and in many cases this is the difference between their staying in business and their being forced out. Their loss would be tragic to the Government and to the marketplace.

Mr. SMITH of California. Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. GUBSER).

Mr. GUBSER. Mr. Speaker, I sincerely hope this rule will be adopted and the House will be allowed to hear the debate and work its will on the merits of the case which will be presented by both sides.

The statement has been made that this is similar to the predator bill. The Members will recall the rule on that bill was defeated just prior to our recent recess. As the gentleman from California (Mr. SMITH) has so succinctly stated the case, there is no similarity because the cyclamates bill now under consideration goes to an actual loss in the past sustained as a result of a Government action. The predator bill would have gone to future losses sustained in the future as a result of a Government action. This bill sets up an orderly process for determining the claims, namely access to the Court of Claims. The predator bill did not.

This bill has been stated as opening up a Pandora's box, the implication being that there will apparently be a precedent which will be sought many, many times in the future. Please let me read from page 112 of the hearings, wherein the Department of Health, Education, and Welfare states that they, on September 28, 1971, took action to see to it that in the future no one could ever again rely upon the GRAS list. They caused these

words to be published in the Federal Register, of that date.

(b) The decision to use a particular GRAS (generally recognized as safe) food additive, or prior sanctioned substance in a food, is a voluntary one. Proper economic planning for the decision should recognize that the substance and the food containing the substance may subsequently become unmarketable because the substance has become newly recognized as posing a hazard to the public health.

There can be absolutely no precedent set by this law for future reliance upon the GRAS list. It is taken care of already. It is a matter of public record.

Some people say that this is going to cost a fortune. I cannot tell the Members exactly what it is going to cost, but many potential claimants have already written this off and taken their tax losses. If they are indemnified, what they are paid will be taxable as income, and if it is for a corporation it will be at a rate of 48 percent. We have to take that into consideration.

Furthermore, I have serious doubt that the large companies, like Abbott Laboratories and the parent corporations of Coca Cola and Pepsi Cola, will actually file claims. As Commissioner Edwards says in the hearings, there is a major difference between the manufacturer and the grower in this instance. He clearly stated that the case of the manufacturers is weaker.

Some have said that the GRAS list was never intended to be relied upon. At the outset that is probably true, but if we want to apply equitable principles, it has been admitted time in and time out throughout the hearings that by usage it became something people depended upon, with the full knowledge of the Food and Drug Administration.

I read from page 80 of the hearings:

Mr. WALDIE. Then the fact that it was put on the GRAS List was at least a stamp of approval from the agency; is that correct?

And Mr. Hastings, Chief Counsel for HEW, said:

That is correct.

I read from page 87 of the hearings:

Mr. WALDIE. So that only the FDA could make the determination for the public at large that cyclamates were generally recognized as safe?

The answer from Dr. Edwards, the Commissioner, was:

That is correct.

And I read from page 111 of the hearings:

Dr. EDWARDS. Let me say that in my own personal opinion, I think there is no particular reason why a canner or a grower would have had any particular knowledge of some of this scientific evidence that was accumulating on this particular food additive.

Another statement has been made that the canners of canned food had 3½ months warning. That is not true. They had 3½ months to dispose of the inventories which they had accumulated because they were not warned in advance.

God does not turn the maturing of fruit on and off like one can stop the bottling line of Coca-Cola or Pepsi Cola. It comes once a year. If they had told us about this in March we would not have canned the stuff, but it came in October, at the highest inventory level of the year.

It has been said that the businessmen were skating on thin ice, implying they knew all along that this was dangerous, and that they ignored the warnings.

I should like to point out that in April 1969 the National Academy of Sciences established informal tolerances for the ingestion of cyclamates by human beings. If we used that level of tolerance one would have had to eat from 25 to 35 servings of cyclamate-sweetened canned peaches each and every day for all of his life.

Now, as to these rats, the experiment that triggered this withdrawal. The rats were fed cyclamates at a proportionate level 50 times that recommended by the National Academy of Sciences. That meant one would have had to eat between 1,250 and 1,500 servings daily of cyclamate-sweetened fruit to equal what was fed the rats.

There is talk about the Secretary Finch letter, which says the rats received only 8½ times the level of human tolerance. All right. At that level one would have had to eat between 240 and 280 servings of fruit. Can you imagine eating 240 to 280 servings of canned fruit each day of your life?

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

Mr. SMITH of California. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. GUBSER. I ask, is it defrauding the public, is it bad business judgment to rely upon the National Academy of Sciences and a fact sheet put out by the Food and Drug Administration, which said, just a year before, that there was not any question that cyclamates were safe for human ingestion?

They say that this will not be an adversary proceeding. Patrick Gray III, the Assistant Attorney General, testified and I paraphrase, "We will go into court. The Government will contest this, and every financial transaction will be subject to an FBI audit."

This will be an adversary proceeding. It is not open and shut.

Mr. Speaker, a couple of years ago we had a big argument on this floor about the Committee on Rules and its proper function. Some people felt that the Committee on Rules under the chairmanship of the gentleman from Virginia, Mr. Smith, was blocking legislation and was engaging in obstructionist tactics and was denying intelligent debate on the floor of the House. If I recall correctly, the gentleman from New York (Mr. CELLAR) voted to enlarge the Committee on Rules thinking that it should no longer be allowed to obstruct free and open honest debate in the typical American fashion.

I ask you now, are you afraid of the case that we are going to present today? What is so wrong with free and honest debate? If it was a good argument when we enlarged the Committee on Rules to the present membership of 15, then it is a good argument today.

We ask only that the prospective claimants under this bill have a chance to go to court. All we ask of you is the chance honestly to debate this question as to whether or not they should go to court. Is there any thing more fair? Is there anything more American? I ask you to vote for this rule.

Mr. SMITH of California. Mr. Speaker, I yield such time as he may use to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. I rise in support of the rule which authorizes 1 hour of debate on the bill, H.R. 13366.

Mr. Speaker, I would like to call attention to my additional views in the report which the House Judiciary Committee submitted on this bill. As I stated there, cyclamates were in general public use for a period of almost 20 years. During that time, many persons benefited from their use by successful programs of weight control, and many others—who were physiologically prevented from consuming sugar—enjoyed the sweetness in food which most of us accept as an everyday fact. During those two decades—indeed, to the present date—there has been no evidence indicating that any human being, young or old, has contracted cancer of any kind as a result of ingesting cyclamates—even in excessive amounts—or over a long period of time.

For the greater part of the period in which cyclamates were in use, the Food and Drug Administration listed them on its "generally regarded as safe" (GRAS) list. Compensating manufacturers and distributors of these food additives for losses resulting from the FDA's abrupt decision to ban them strikes me as an equitable method for saving from financial loss—in some cases, ruin—those who, in good faith, relied on an explicit representation of the Federal Government.

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

Mr. WIGGINS. Mr. Speaker, I rise in support of this rule and, upon the adoption of the rule, I intend to support the bill. I take this time to comment upon one issue only, that is, the argument made by our distinguished chairman of the full committee that these would not be adversary proceedings. He said, as a lawyer, these claims would open up a blank check drawn on the Treasury of the United States by which claimants would go to court, and no one would resist their claim for damages against the Treasury.

Mr. Speaker, also as a lawyer, let me say that is simply not true. That is not a fact. The fact is that these claims are made against the United States. The United States will appear as a party before the court of claims. The claimant, the individual company or grower, will have to prove his claim by a preponderance of the evidence. The burden rests with him.

Moreover, that claimant must prove, among other things, good faith. If he does not sustain that burden, he is not entitled to compensation at all. Accordingly, Mr. Speaker, we are not dealing with a group of claimants who come into court with knowledge, forewarned that the

product used by them is potentially hazardous to health. We are dealing solely with a group of claimants which, by this statute, must have relied in good faith.

Ladies and gentleman, given that kind of criteria, the bill before us is worthy of your support, and the rule also is worthy of your support.

To those of you who are concerned about the broader question that this bill raises, I suggest it can be framed as follows: In the case of an innocent claimant, who should bear the loss for damages sustained as a result of public action? Who should bear this loss? Is it a real loss? Should it be borne solely by the manufacturers and growers, or, since it was caused as a result of public action, should that loss be spread among the public generally? On that question I can understand reasonable men and women differing, but in the past we have not hesitated to say that the public itself should sustain the loss. Those of you from the Southwest, for example, have lived through the experience of cattle being slaughtered at public request because they contracted a particular disease, and those cattlemen had their losses paid.

Out on the west coast we had millions of chickens killed because there was a public health problem. That loss was not sustained by the chicken growers. It was sustained by the public. Now, probably the analogy is not as close as you would like, but it is a reasonable one.

I urge the adoption of the rule.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Speaker and my colleagues, some of you may recall that a few weeks ago I was here in vigorous opposition to what I called the coyote bill, the bill to indemnify sheepmen and cattlemen for the loss of their animals due to being killed by predators.

Let me say first that as far as I know I have no canners in my congressional district which would be affected at all by this bill. I have thousands of coyotes, and I have a cattle and sheep industry there of substantial importance. Nevertheless I think there is a real distinction between that bill and this one. That bill went to the future, and there would have been terrible administrative problems in deciding whether a sheep or a calf or a chicken or a turkey was or was not killed by a predator, but there was no provision requiring going to court.

This bill has to do with damages already suffered by persons who relied upon what they felt was the Government's assurance that they could safely use this particular chemical in the canning of their products. All they are asking for is the right to go to court. It does not have the administrative difficulties nor the other problems, to me, at least, that the other bill had. I think the bills are clearly distinguishable, and I do support this bill.

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

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Speaker, I rise in support of the rule. I would like to add only one point to those that have been made. That is that we have been talking here, in many cases, about small farmers. It is important for us to understand that we are not talking in all cases of indemnifying large corporations.

In my district many small farmers have joined together in co-ops to can their fruit such as pears. I went to one such warehouse of one of those co-ops and saw cartons of pears that had been legally canned with cyclamates. The stack of cartons probably would have filled this entire Chamber from the floor to the ceiling.

When I asked what would be done with them, the man simply turned away and said, "I do not know."

These farmers are, in many cases, the claimants we are discussing. They are small farmers who have been harmed, not large corporations.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I hope this rule is adopted and I hope the bill passes.

However, I would like to add and say that I hope along the line we will get some general legislation in this area.

We have in recent years created the Office of Environmental Protection and set up a man in that position who is doing the best he can, so far as I can tell. But we have given him as we have with the head of the Food and Drug Administration and many others, powers that I say a good man would not want and a bad man should not have and that 10 men could not handle.

This thing about damages by an act of the Government goes back to the cranberry case in which the then Secretary of what is now HEW made a public announcement that destroyed the cranberry industry just before Thanksgiving.

At that time the Government came in and paid the cranberry industry about $10 million, as I recall it, based on maintaining the income of those engaged in this production under section 32. This Congress has authorized and appropriated the money to pay those who had their milk poured out and saw their milk destroyed because of an announcement by the Government—milk that was all right until the Government did act and we did the same thing with beekeeping.

In this instance these folks had to go into the Court of Claims which goes much further than Congress required in other areas.

I say to you, when we have gone off as far as we have on this beekeeping that in some respects where they are testing devices that can measure one part in a trillion, the Delaney Act under which this occurs needs to be reviewed and we need to reach some kind of standard testing.

Otherwise every industry in this country could wake up tomorrow and read an attack by the head of the Food and Drug Administration or by Mr. Ruckelshaus and suddenly he is absolutely destroyed without recourse and without any place to turn.

I think certainly this is a start toward letting a man who is in that position go to the Court of Claims and prove the correctness of his views.

I hope later that this Congress will get busy and give us a forum where we can thrash these matters out so that we do not destroy the country.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I would establish my credentials first by saying—I did not support the predator indemnification bill because I thought it was premature. I know a lot of you from the cities might be concerned that we are going to be giving $25 million or $30 million to agriculture under this bill.

I would say—consider this.

The group that is going to recover under this bill generally does not recover a dime under the annual agricultural appropriation made by the committee of the gentleman from Mississippi.

Normally $6 billion go to cotton, wheat, dairy products and corn, but not one dime goes to specialty commodities. These people have been damaged by the action taken by the Food and Drug Administration.

I rise in support of the rule on the pending bill H.R. 13366 to allow jurisdiction in the Court of Claims to allow compensation to certain good faith victims of the cyclamate ban for their costs.

I do not think that this bill presents a consumer issue vote or a pro farmer issue vote or a Ralph Nader vote—this legislation is more in the nature of disaster relief. We have heard arguments on what actions of FDA could and could not be relied upon.

Since 1958, cyclamates have been included by the Food and Drug Administration on its list of substances "generally regarded as safe," acronymed "GRAS." These substances were considered so safe they were exempted from the usual regulatory testing.

The use of cyclamate sweeteners increased rapidly; in fact, it more than tripled between 1963 and 1969. In the late summer and early fall of 1969, the canners packed their cyclamate canned fruit in good faith, relying on the assurance of the GRAS list that cyclamates were safe.

Without warning—the laboratory work had been completed only 10 days earlier—the FDA announced it had found fantastically heavy doses of cyclamates to cause bladder cancer in rats and that, therefore, cyclamates could no longer be sold in general purpose foods under the the Delaney amendment. Various medical exceptions were allowed for a few months, but no cyclamate sale has been allowed since August 1970.

The banning of cyclamates cannot be disputed at this time. The Delaney amendment requires that any substance found to be carcinogenic cannot be added to food in any quality. However, I feel it is not fair to ask the canners and growers to bear the financial cost of the ban lest private industry be deterred from fully experimenting in this important area.

Announcement of the ban came at the

worst possible time: immediately after the crop had been canned. The canners' have made the sacrifice and submitted to the ban they recognize to be in the public interest. But it seems only reasonable that the public bear some of the burden with the farmers.

Under this bill, producers will sacrifice all profits. Unlike a defense contractor who fouls up, they do not consider themselves to have a God-given right to profit at the public expense. They are asking only to be protected from catastrophic loss of out of pocket expenditures.

Rather than polarize on this issue based on whether we are liberal or conservative—farmer or city representatives—I think we should fairly review the dispassionate reports made on the bill and by another committee, the Fountain Subcommittee on FDA Oversight in the Interstate and Foreign Commerce Committee.

Let us also abstract the important parts of the departmental reports on this bill:

This definition naturally raised a widespread question over what substances were generally recognized as safe. The Department, as a public service, undertook to publish a list of these substances to be compiled by surveying, through questionnaire, appropriate experts. A GRAS list was published in the Federal Register as a proposal, and was mailed out to about 900 knowledgeable scientists, whose comments were solicited. Over 300 of them replied. The list was revised and publishd as a final order, and has been expanded from time to time.

As this background summary illustrates, the list, both from a factual and a legal standpoint, is an administrative compilation of current scientific beliefs about the safety of substances for use in food. When the cyclamates were added to the GRAS list they *were* generally recognized as safe by the scientific community.

Nevertheless, the list has at no time carried on its face the warning that the listed substances, although generally recognized as safe, could at any time be found unsafe and consequently delisted. And, indeed, the list appears to have been relied upon as an official assurance that listed substances were *safe in fact.*

In order to avoid a recurrence of such reliance, I have asked that the GRAS list be amended to carry a suitable warning on the provisional character of its contents. This seems particularly appropriate at this time, not merely because of the losses suffered by food processors as an aftermath of the cyclamate action, but because an ongoing review of GRAS-listed substances initiated by the Administration, may cause the delisting of additional additives to food, and thereby the generation of new commercial losses.

We recognize that reliance upon the GRAS list by individual growers, manufacturers, packers, or distributors, however unwarranted as a technical legal matter, may have caused or contributed to their losses. Therefore, in the unique circumstances of this case, we would not object to enactment of legislation.—*Secretary Elliot L. Richardson, September 1, 1971.*

We believe it would be desirable to include a prefatory statement of legislative purpose making clear that the relief provided is to accommodate hardship to the enumerated persons occasioned by lawful action of the Commissioner of Food and Drugs on October 17, 1969, pursuant to §§ 201(s), 409 and 701(a) of the Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. §§ 321(s), 348 and 371(a)) promulgated in the *Federal Register* of October 21, 1969 (34 F.R. 17063).

As we understand the factual circumstances leading up to the administrative action in question, which resulted in removal of cyclamates from FDA's list of additives generally recognized as safe for their intended use (the "GRAS" list), the following sequence of events is pertinent:

September 6, 1958.—Enactment of amendments to the Federal Food, Drug and Cosmetic Act providing, *inter alia,* for determination and regulation of unsafe food additives.

December 9, 1958.—Notice of proposed rulemaking by the Commissioner of Food and Drugs, pursuant to the foregoing statutory amendments, to establish standards, criteria and procedures for determining whether a food additive is generally recognized as safe for its intended use. Subpart B of the proposed regulations contained a partial listing of such additives so recognized, including, in the category proposed for exemption from tolerance requirements, calcium cyclohexyl sulfamate and sodium cyclohexyl sulfamate. (23 F.R. 9511, 9517).

November 20, 1959.—Promulgation by the Commissioner of Food and Drugs of final regulations, identifying food additives that are generally recognized as safe for their intended use (the "GRAS" list), reiterating calcium cyclohexyl sulfamate and sodium cyclohexyl sulfamate in the category for which no tolerance level was required. (24 F.R. 9368, 9369).

February 2, 1960.—Notice of proposed rulemaking by the Commissioner of Food and Drugs, including addition of magnesium cyclohexyl sulfamate and potassium cyclohexyl sulfamate to the GRAS list with no tolerance level specified. (25 F.R. 880).

January 31, 1961.—Promulgation by the Commissioner of Food and Drugs of a revised GRAS list, including the four salts of cyclamic acid referred to above without tolerance levels. (26 F.R. 938).

April 5, 1969.—Notice of proposed rulemaking by the Commissioner of Food and Drugs to establish a food additives regulation for cyclamic acid and its salts, including (a) labeling requirements for cyclamate food additive content (milligrams) and maximum daily limit on ingestion (milligrams) for adults and children; (b) a limitation on the part per million of cyclohexylamine in any cyclamate food additive; and (c) analytical standards and procedures for determining cyclohexylamine content. (34 F.R. 6194)

October 21, 1969.—Promulgation by the Commissioner of Food and Drugs of amendment to the GRAS list deleting the salts of cyclamic acid referred to above effective immediately, on the ground that cyclamates could "no longer be regarded as generally recognized as safe for use in food." Withdrawal of existing stocks of . artificially sweetened beverages for general use was to be effected by January 1, 1970, and phase-out of other artificially sweetened foods for general use containing substantially lower levels of cyclamates was to be accomplished by February 1, 1970. (34 F.R. 177063)[1]

While we expressly do not wish to suggest that indemnification is generally warranted where lawful action by the federal government occasions economic detriment to a class or classes of persons, we do believe the circumstances enumerated above establish an equitable basis for relief in this particular case.

Given the long history and widespread commercial use of cyclamates as an artificial sweetening agent for prepared food and drinks, the proposed (1958) and final (1959) inclusion of sodium and calcium salts of cyclamic acid in FDA's first GRAS list and the later proposed (1960) and final (1961) addition of magnesium and potassium salts of cyclamic acid to the list, and the April 5, 1969 notice which dealt with labeling and standards of limitation on ingestion and in additives, it appears that commercial users of cyclamates had little or no reasonable basis for believing prior to FDA's action in October 1969 that these additives would be declared to be unsafe for use in consumables. Acocrdingly, we favor legislation to afford the above enumerated parties relief as a matter of equity through judgments by the Court of Claims.—*William N. Letson, Department of Commerce, General Counsel September 7, 1971.*

The list is set out in 21 C.F.R. 121.101. The word "safe" as used for the GRAS list was defined to mean "that there is convincing evidence which establishes with reasonable certainty that no harm will result from the intended use of the food additive." 21 C.F.R. 121.1(1). The effect of the order, dated October 17, 1969, of the Commissioner of FDA was to remove cyclamates from the GRAS list. In the order, the Commissioner stated that his removal action was taken on the basis of animal studies recently reported to the FDA by Abbott Laboratories . . . the claimants in this matter stress the importance of the GRAS list and their reliance on it; that they had no reason to expect and had no warning of the imminent possibility of the removal of cyclamates of foods containing these additives; that without such a warning or other reason to take preventive action, they were unable to foresee the Commissioner's order and, accordingly, while acting in good faith and in the normal course of business, built up their inventories and took other steps that led to the large losses for which the claims are now being made.

In view of these special circumstances, and since present law does not appear to provide a basis of recovery for these particular claimants, the Department of Justice would not object.—*Richard G. Kleindienst, Deputy Attorney General, September 7, 1971.*

Farmer members of many cooperative canners suffered severe losses as the result of the decision to prohibit the use of cyclamates. These growers generally have received no compensation for fruit delivered to their cooperatives which was subsequently packed in a cyclamate solution. While determined in accordance with statutory requirements, the prohibition in this case came at the worst possible time from the growers' standpoint, inasmuch as the 1969 fall canning season was just concluding and inventories of products containing cyclamates were at near peak levels. The Department knows that there has been severe hardship to these growers.—*J. Phil Campbell, Under Secretary Agriculture, September 3, 1971.*

On the question of reliance I would refer to the well-documented Fountain subcommittee report of late 1969 that concludes:

It was evident at least as early as 1966 that there was a genuine difference of opinion among qualified experts as to the safety of the cyclamate sweeteners. Consequently, FDA had an obligation at that time to remove cyclamates from the GRAS list, to declare them to be a "food additive" within the statutory definition, and to ban their use until industry had established their safety. But despite the mounting evidence in the ensuing years, FDA did not act.

The committee has received no satisfactory explanation for FDA's failure to act before the evidence of carcinogenicity was reported in October 1969.

Lethargy appears to have played a role in FDA's inaction in this matter. The hearing record reveals that FDA's toxicological advisor stated on September 8, 1967, that "We cannot say today that the cyclamates are generally recognized as safe; however, removing them from the GRAS list and estab-

Footnotes at end of article.

lishing tolerances in soft drinks, et cetera, will produce difficult problems."

Prompt and timely action by FDA to remove cyclamates from the GRAS list and containing foods, particularly carbonated beverages, might have produced "difficult problems" for the agency. However, it would have prevented far more serious problems, including unnecessary exposure of the public to possible hazards and substantial financial losses to industry.

I believe that the conclusion to be drawn is that growers, users, and handlers had a right to rely on the FDA's interpretation of its own laws and regulations, FDA was the primary Federal agency that was managing NAS–NRC research. It was the responsibility of FDA to determine limits on use under the law when the facts were reasonably available. The Fountain Committee found that the FDA at the very least should have acted on July 26, 1969, when a work was published in Nature—pages 406–407—describing myocardial lesions associated with cyclamates.

This was before the disastrous pack of October 1969.

The FDA in an effort to help the industry then further compounded its earlier errors last year which led the Fountain Committee to the following conclusions:

First. FDA failed for several years to protect the public against possible health hazards associated with cyclamates despite a clear legal obligation to do so.

Second. FDA aggravated the consequences of its inaction by permitting the use of cyclamates in food to reach massive proportions.

Third. FDA attempted to permit the continued marketing of cyclamate-containing products through illegal regulations and procedures.

Fourth. The decision to permit the continued marketing of cyclamate-containing products was made by the Secretary of Health, Education, and Welfare, not by FDA.

Fifth. HEW used an outside advisory body to make recommendations on matters that had already been decided, involving a basic issue which the advisory body was not qualified to decide.

Sixth. NAS–NRC panels that considered the safety of cyclamates in food were not asked to provide the basic information necessary for determining if cyclamates should remain on the GRAS list.

I submit that the legislation should be enacted.

GENERAL LEAVE TO EXTEND

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks in connection with this resolution.

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

There was no objection.

Mr. SISK. Mr. Speaker, I yield myself the remaining 2 minutes on this side.

Mr. Speaker, I think the statements already made pretty well cleared the issue as to what is at stake here. In the first place, let me say we are not discussing the merits or demerits of cyclamates. I think that decision has been made. We are concerned about the wrong that many of us feel has been done to a small number of people in this country, and we simply seek a forum because they have had no forum whatsoever anywhere to present their case.

I am all for the protection of the American people from those types of foods or additives that are contrary to the best interests of the human body, but at the same time when we get to the point where we begin to literally bankrupt individuals here and there, that is, for the purpose of the public good, the public is going to have to foot the bill.

There is no question but what the testimony of the agencies was to the effect that there was arbitrary and capricious action on the part of the Federal Government in connection with this situation. All we seek is an opportunity to give these people the right to go into court and to see whether or not they acted, first, in good faith and, second, what their actual losses were—actually only their losses.

I urge you to vote for the rule and to permit the debate to go forth on this particular subject.

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

Mr. SISK. I yield briefly to the gentleman.

Mr. GUBSER. There was one point which was not brought out during this debate. I would like the gentleman to answer this question: The sanctity of the Delaney amendment is not at issue here today; is that correct?

Mr. SISK. That is correct; the Delaney amendment is not affected in any way by anything in connection with this question. This only deals with what we believe to be the rightful consideration of an individual who suffered tragic losses in connection with a decision that had to be made under existing law.

Mr. GUBSER. I thank the gentleman.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CELLER. 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 270, nays 77, not voting 85 as follows:

[Roll No. 278]

YEAS—270

Abbitt	Begich	Brown, Mich.
Abernethy	Belcher	Brown, Ohio
Abourezk	Bennett	Broyhill, N.C.
Adams	Bergland	Broyhill, Va.
Anderson, Ill.	Betts	Buchanan
Andrews, Ala.	Biester	Burleson, Tex.
Andrews, N. Dak.	Bingham	Burlison, Mo.
	Blatnik	Burton
Annunzio	Bow	Byrnes, Wis.
Arends	Brademas	Byron
Ashley	Brasco	Cabell
Aspin	Bray	Caffery
Aspinall	Brinkley	Carey, N.Y.
Baker	Brooks	Carlson
Baring	Brotzman	Cederberg
Chappell	Horton	Randall
Clancy	Hosmer	Rees
Clausen, Don H.	Howard	Reid
	Hull	Rhodes
Clawson, Del	Hungate	Riegle
Conable	Hunt	Roberts
Corman	Jacobs	Robinson, Va.
Coughlin	Jarman	Robison, N.Y.
Crane	Johnson, Calif.	Rodino
Culver	Johnson, Pa.	Roncalio
Curlin	Jonas	Roush
Daniel, Va.	Jones, Ala.	Rousselot
Daniels, N.J.	Jones, Tenn.	Roy
Danielson	Karth	Runnels
Davis, S.C.	Kastenmeier	Ruppe
Davis, Wis.	Kazen	Satterfield
de la Garza	Keating	Scherle
Dellenback	Kee	Scheuer
Denholm	Keith	Schmitz
Dennis	Kemp	Schneebeli
Dent	King	Scott
Derwinski	Kluczynski	Sebelius
Dickinson	Kuykendall	Shoup
Diggs	Kyl	Shriver
Dingell	Leggett	Sikes
Dorn	Lennon	Sisk
Downing	Lent	Slack
Duncan	Lloyd	Smith, Calif.
du Pont	Lujan	Smith, Iowa
Dwyer	McClory	Smith, N.Y.
Eckhardt	McCollister	Spence
Edwards, Ala.	McCormack	Staggers
Edwards, Calif.	McCulloch	Stanton, J. William
Esch	McDade	
Eshleman	McFall	Stanton, James V.
Evans, Colo.	McMillan	
Findley	Macdonald, Mass.	Steed
Fisher		Steele
Flood	Mahon	Steiger, Ariz.
Flowers	Mailliard	Steiger, Wis.
Foley	Mallary	Stephens
Ford, Gerald R.	Martin	Stratton
Forsythe	Mathias, Calif.	Stubblefield
Fountain	Mathis, Ga.	Symington
Frelinghuysen	Mayne	Taylor
Frenzel	Meeds	Teague, Calif.
Frey	Michel	Teague, Tex.
Fuqua	Miller, Calif.	Thompson, Ga.
Galifianakis	Miller, Ohio	Thomson, Wis.
Garmatz	Mills, Md.	Udall
Giaimo	Minshall	Ullman
Gibbons	Mizell	Van Deerlin
Goldwater	Mollohan	Vander Jagt
Gonzalez	Montgomery	Veysey
Goodling	Morgan	Vigorito
Green, Oreg.	Mosher	Waggonner
Griffin	Moss	Waldie
Grover	Murphy, Ill.	Wampler
Gubser	Myers	Ware
Haley	Natcher	White
Hamilton	Nelsen	Whitehurst
Hammer-schmidt	Nichols	Whitten
	O'Konski	Widnall
Hanna	O'Neill	Wiggins
Hansen, Idaho	Passman	Williams
Hansen, Wash.	Pelly	Wilson, Bob
Harsha	Perkins	Winn
Harvey	Peyser	Wright
Hastings	Pickle	Wyatt
Hathaway	Pirnie	Wydler
Hays	Poage	Wylie
Heckler, Mass.	Poff	Wyman
Henderson	Powell	Young, Fla.
Hicks, Mass.	Preyer, N.C.	Young, Tex.
Hicks, Wash.	Price, Tex.	Zablocki
Hillis	Quie	Zion
Holifield	Railsback	Zwach

NAYS—77

Abzug	Grasso	Pryor, Ark.
Archer	Gross	Rangel
Ashbrook	Gude	Reuss
Barrett	Hall	Roe
Bell	Hawkins	Rogers
Bevill	Hechler, W. Va.	Rooney, Pa.
Boland	Helstoski	Ruth
Burke, Fla.	Hogan	St Germain
Burke, Mass.	Ichord	Sarbanes
Carney	Koch	Saylor
Carter	Kyros	Schwengel
Celler	Latta	Seiberling
Clark	Long, Md.	Shipley
Collins, Ill.	Madden	Skubitz
Collins, Tex.	Mann	Snyder
Conover	Mazzoli	Stokes
Conte	Minish	Sullivan
Delaney	Mitchell	Thompson, N.J.
Dellums	Murphy, N.Y.	Thone
Donohue	Nix	Tiernan
Dow	O'Hara	Vanik
Drinan	Patman	Whalen
Eilberg	Patten	Wilson, Charles H.
Fascell	Pike	
Fraser	Podell	Yates
Gaydos	Price, Ill.	Yatron

NOT VOTING—85

Addabbo	Evins, Tenn.	McKinney
Alexander	Fish	Matsunaga
Anderson, Calif.	Flynt	Melcher
Anderson, Tenn.	Ford, William D.	Metcalfe
Badillo	Fulton	Mikva
Biaggi	Gallagher	Mills, Ark.
Blackburn	Gettys	Mink
Blanton	Gray	Monagan
Boggs	Green, Pa.	Moorhead
Bolling	Griffiths	Nedzi
Broomfield	Hagan	Obey
Byrne, Pa.	Halpern	Pepper
Camp	Hanley	Pettis
Casey, Tex.	Harrington	Pucinski
Chamberlain	Hébert	Purcell
Chisholm	Heinz	Quillen
Clay	Hutchinson	Rarick
Cleveland	Jones, N.C.	Rooney, N.Y.
Collier	Landgrebe	Rosenthal
Colmer	Landrum	Rostenkowski
Conyers	Link	Roybal
Cotter	Long, La.	Ryan
Davis, Ga.	McCloskey	Sandman
Devine	McClure	Springer
Dowdy	McDonald, Mich.	Stuckey
Dulski	McEwen	Talcott
Edmondson	McKay	Terry
Erlenborn	McKevitt	Whalley
		Wolff

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Alexander for, with Mr. Rooney of New York against.

Mr. Matsunaga for, with Mr. Monagan against.

Mr. Pepper for, with Mr. Mikva against.

Mr. Stuckey for, with Mr. Addabbo against.

Mr. Colmer for, with Mr. Badillo against.

Mr. Edmondson for, with Mr. Biaggi against.

Mr. Boggs for, with Mr. Harrington against.

Mr. Pettis for, with Mr. Heinz against.

Mr. Chamberlain for, with Mr. McKevitt against.

Mr. Erlenborn for, with Mr. Blanton against.

Mr. Talcott for, with Mr. Halpern against.

Mr. McClure for, with Mr. Hanley against.

Mr.. Devine for, with Mr. Dulski against.

Mr. Hébert for, with Mr. Clay against.

Mr. Fulton for, with Mrs. Chisholm against.

Mr. Camp for, with Mr. Cotter against.

Mr. Sandman for, with Mr. William D. Ford, against.

Mr. Broomfield for, with Mr. Byrne of Pennsylvania against.

Mr. Blackburn for, with Mr. Green of Pennsylvania against.

Mr. McDonald of Michigan for, with Mr. Conyers against.

Mr. Cleveland for, with Mr. Nedzi against

Mr. Quillen for, with Mr. Ryan against.

Mr. Roybal for, with Mr. Pucinski against.

Mr. Rostenkowski for, with Mr. Gallagher against.

Until further notice:

Mr. Wolff with Mr. McCloskey.

Mr. Rosenthal with Mr. Collier.

Mr. McKay with Mr. Terry.

Mr. Link with Mr. Whalley.

Mr. Jones of North Carolina with Mr. Landgrebe.

Mr. Evins of Tennessee with Mr. Hutchinson.

Mr. Anderson of California with Mr. McKinney.

Mr. Dowdy with Mr. Fish.

Mrs. Griffiths with Mr. McEwen.

Mr. Purcell with Mr. Springer.

Mr. Anderson of Tennessee with Mr. Landrum.

Mr. Casey of Texas with Mr. Gray.

Mr. Rarick with Mr. Moorhead.

Mr. Melcher with Mr. Metcalfe.

Mr. Davis of Georgia with Mr. Mills of Arkansas.

Mr. Flynt with Mrs. Mink.

Mr. Gettys with Mr. Hagan.

Messrs. MITCHELL and SEIBERLING changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WALDIE. 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. 13366), to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed or packaging, labeling, and other materials had been prepared in good faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes.

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

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. 13366, with Mr. ULLMAN 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 California (Mr. WALDIE) will be recognized for 30 minutes, and the gentleman from New York (Mr. SMITH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California.

Mr. WALDIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I think the title of the bill is misleading in that it says it provides for the payment of claims to those who were damaged by the ban on cyclamates. In fact, the bill does not. It provides for the presentation of those claims to the Court of Claims. It confers jurisdiction on the court for citizens of the United States who believe they have been aggrieved by a wrongful action on the part of their Government to present that claim to a court and if successful to receive a judgment.

However, since the bill was first introduced much opposition has been expressed to the bill because it was believed the only responsibility of the Court of Claims was to pay the damages which the court has determined but the damages must be approved by the Court of Claims. The committee amended the bill in a substantial manner. It said the Court of Claims not only had jurisdiction to determine the amount of the damage the claimant would present but the Court of Claims also would determine whether the claimant acted in good faith in relying on the GRAS list. The court would determine whether the claimant would be permitted to recover. However, if there was intervening knowledge on the part of the claimant that in fact would not permit him to rely on the GRAS list, the claim would be denied.

Standing here before the Members now, I cannot say to the Members that every class of claimant that appears before the Court of Claims in fact will be able to sustain the burden of proof that they relied in good faith on the GRAS list.

For example, there is clearly a difference in the burden the claimant must submit to the court if he is a manufacturer of cyclamates with a very extensive laboratory engaging in ongoing testing of cyclamates and if he is a grower in the field in California that never even heard of the word cyclamates. It is much more believable to believe that a grower in the field in California had every reason to rely on the list or his agents relied on the list as containing those substances generally regarded as safe subtances, and intervening information would probably in my view not preclude the Court of Claims from entertaining his claim. But it is even conceivable that the Court of Claims might feel every case or reliance on the GRAS list was not in good faith.

The opponents to the bill have now said there was no possibility for anyone to have relied on the GRAS list because knowledge was pervasive throughout the community that cyclamates were damaging and dangerous. That is the contention of most of the opponents to the bill. The response to that is simple. If that is so, nobody can recover. If knowledge as to the dangers of cyclamates was as pervasive as the opponents claimed it to be, the mere presentation of that fact before the court would require the Court of Claims to make a finding that good faith reliance on the GRAS list could not occur, therefore no finding of fact.

Furthermore, there was a contention made that if we permit access to the Court of Claims by citizens who claim they were aggrieved by the Government—we take no position whatsoever by passage of this bill that in fact any citizen was aggrieved by the Government—if we give the citizen access to the Court of Claims so that he can maintain the case that he was aggrieved by the Government, it is said by opponents of the bill, we open the door to the Treasury. That is simply not so.

We require that they prove direct and indirect costs they incurred because of the action by their government, which they believe was improper and from which their incurred damage.

I believe the action of the Government in processing this cyclamate ban was improper. That is not the ban itself. I thoroughly concur with the ban. But the manner in which they processed the ban on cyclamates misled people, led them to a position in which they incurred losses.

The Government ought not to be immune from bearing the consequences of its actions. No one would suggest an individual citizen who caused damage to another American citizen should not have a day in court. To suggest that even though the Government did damage to an American it ought not be sued

is a theory as to the power of the Government with which I do not concur.

Mr. SMITH of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and ladies and gentlemen of the committee, this bill recognizes a unique situation whereby domestic growers, manufacturers, packers and distributors of products using cyclamates suffered losses by reason of a sudden reversal of a long standing official listing of cyclamates as generally recognized as safe for use in food.

Under the provisions of H.R. 13366, those who allegedly incurred pecuniary losses following the Government's ban on further sales of products containing cyclamates will have their day in court. If they can meet the test provided in the bill—a good faith reliance upon that official listing—then they will have the opportunity to prove their actual losses.

The use of artificial sweeteners first received approval of the Federal Government in 1959. In that year, the Food and Drug Administration of the Department of Health, Education, and Welfare placed certain cyclamates on a list of food additives designated as the GRAS list. This action constituted notice to the public and the commercial community that cyclamates were generally recognized as safe for their intended use.

During the decade that followed, an unprecedented use and consumption of artificially sweetened products occurred. Wide popular acceptance of available products stimulated further product development. Cyclamates were used not only in carbonated beverages, fruit drinks and weight control preparations, but in canned fruits, jams, jelly, preserves, desserts, salad dressings, maple sirup, baked goods, candy—even as tablet coating for a variety of drugs.

All during the 1960's, when the use of cyclamates as a sweetener for dietary and other products was rapidly increasing, the FDA continued to list such sweeteners as "generally recognized as safe." It is also to be noted that twice, in 1962, and 1968, the National Academy of Sciences, upon FDA requests, studied cyclamates and stated that they were safe for use in foods if used within reasonable limits.

In October of 1969, however, after bladder cancer had been reported to have been induced in rats, HEW announced that such sweeteners were no longer "generally recognized as safe" for food purposes. The Federal Government ordered an immediate ban on the production of food and drink products containing cyclamates. This announcement caused immediate consumer rejection of a substantial portion of the products containing cyclamate sweeteners notwithstanding that the market ban imposed by HEW was not immediate. Overnight, goods containing such sweeteners became unsalable in this country.

It is to be noted, first, that when cyclamates were added to the GRAS list they were generally recognized as safe by the scientific community. Second, the list never carried any warning that the substances could, at any time, be found unsafe and removed from the list. Third, it is obvious that the GRAS list was relied upon by the industry as an official assurance that cyclamates were safe in fact.

Thus, the claimants who would be aided by this bill acquired and used large supplies of a product which was generally regarded as safe and useful in promoting public health and suddenly their market was eliminated by the HEW action of October 18, 1969, to protect the public health. The commercial users of cyclamates thus had little or no basis for believing that cyclamates would be found unsafe for use.

As a consequence of their justified reliance upon the GRAS list, the cyclamate users suffered a sudden and massive economic loss. Under these unique circumstances, it is inequitable that they should bear the burden caused by the Federal Government's action. It is only justice that they should be allowed to pursue their claims in court and to recover their losses if they can establish a good faith reliance upon the GRAS list.

HEW, by changes in its regulations, has made it impossible for a similar situation to develop in the future. Accordingly, we have a truly unique set of circumstances which created an equitable claim against the Government—but which can never occur again. It is these special circumstances which prompted the Justice and Commerce Departments, as well as HEW, to support H.R. 13366 as justifiable relief for growers, distributors, packers, and manufacturers who suffered losses as a result of good faith reliance upon a system of governmental regulation and supervision in the interest of public health.

Mr. Chairman, I urge favorable action upon this bill.

Mr. WALDIE. Mr. Chairman, I yield 5 minutes to the distinguished member of the Committee on the Judiciary, the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Chairman, and members of the committee, I still maintain that really and truly this is not an adversary proceeding as to liability on the part of the Government as in a normal legal proceeding. We are as a forum here, as a court to fix that liability. We say that if you made or used cyclamates, you have a right to go to the Court of Claims. You have this right, because you have been damaged. We make that finding of liability like a judge would in a court. There is no adversary proceeding where the validity or legality of the Government's acting in banning cyclamates or could be put in question. We have no adversaries here except those who are opposed to the bill. In that sense I will say that this is not an adversary proceeding, and I still maintain in a real and genuine sense this is a blank check upon the U.S. Treasury. There is no sound basis for these claims, simply because cyclamates were included on the initial GRAS list.

There is no endorsement of the Government of safety because an item was included on the GRAS list. The Food and Drug Administration was under a duty to continue research because the GRAS list is purely a temporary arrangement. The Government cannot be barred from such research to protect the public. And at no time did the Pure Food and Drug Administration recommend, endorse or promote the use of cyclamates. To say that being on the GRAS list is promotion of cyclamates, endorsement of cyclamates or recommendation of cyclamates is a non sequitur. The GRAS list argument is a rather slender reed to lean on. Commonsense tells us that, even had the Pure Food and Drug Administration wished to guarantee safetly, it could not in law have done so.

Scientific knowledge never stands still. New evidence appears as toxicological techniques and inquiries advance.

To suggest that the U.S. Government should be bound on a tentative finding like the GRAS list as to so-called safety when the public health is involved is just pure folly.

I would like to read to you from the letter that the Members, or most of the Members received from the distinguished gantleman from New York (Mr. DELANEY), a member of the Committee on Rules, who was the author of the Food Additives Amendment Act of 1958.

He said:

> The Food Additives Amendment established a system for the pre-testing of all food additives. However, because of the impossibility of testing the many hundreds of additives then in use, the Act provided that those additives "used in food prior to January 1, 1958", and generally recognized as safe for their intended use would be exempt from the testing requirements. In order to advise the industry of the additives that were exempt from the testing requirements, the FDA developed and published a list of those items then in use and "generally regarded as safe". As can be seen, this GRAS list was really a list of those items that had not been tested, and all the government was saying by publishing the list was, "You are not violating the new law on additives by using these items without going through the testing requirements."

How in thunder you can derive from that kind of language an approval, I cannot see.

You are creating a very dangerous precedent. The Government for years permitted DDT and many pesticides. The approval by the Government over the many years might be deemed tacit approval, and this bill, if it is passed, might be cited as a precedent. The Government has, without any hindrance, without any interference over many, many years allowed pesticides and DDT to be used, now it says DDT and many pesticides are banned. If you allow this bill then you must allow damages for those who bought pesticides and DDT, and now cannot use them.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SMITH of New York. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. GUBSER).

Mr. GUBSER. Mr. Chairman, this is an easy bill to be against if it is misunderstood and an easy bill to be for if it is understood.

It would be easy to claim a vote for economy. It would not be difficult to vote "no" when so few people would benefit. But if fair play and simple justice are important to you then you should support this bill.

If you believe in fair play, then I beg you, please, please listen.

I argue for this bill, but I can only vote "present" because of a clearcut conflict of interest. I am a very small and rather insignificant member of an agricultural cooperative, the California Canners and Growers Association. Over the years $1,825.80 has been withheld from my crop payments as a capital retain and would be revolved back to me in the future. If this bill does not become law, I will personally lose $1,217.96 of money which is rightly mine and which other pear growers who are not members of a coop have already received. Last Friday, I sold my small pear orchard and so never expect to see the $1,217.96 with or without this bill. But nevertheless, I declare a conflict of interest and will vote "present."

My concern is for the 1,200 small, and I emphasize small farmers who belong to this co-op. The median average capital retain for each of these farmers is $10,150 and unless this bill becomes law each of them will lose $7,105.

Do not let them tell you this is a bill for big business. There are thousands of small farmers and small businessmen involved. The median average capital retain of $10,150 for California Canners and Growers 1,200 members represents about 10 percent of each grower's crop for 8 years. This amounts to an annual median crop average of $12,600. In the case of fruit farmers this is a farm of less than 30 acres.

I doubt seriously that Abbott Laboratories, the principal manufacturers of cyclamates, or the Coca Cola Corp., or the Pepsi Cola Corp., will be successful claimants if in fact they make claims. But there is absolutely no way for the small farmer and co-op member to establish his claim if you do not pass this bill and give him his basic American right of going to court to prove good faith and to have his claim established—a claim which may or may not be paid depending upon the will of a future Congress.

Let us not forget that the withdrawal of cyclamates came at the end of the fruit packing season. Fruit, thanks to God, matures once each year—nature's assembly line cannot be turned on or off like the bottling lines of Pepsi or Cola Cola.

The cyclamate withdrawal came at the end of the packing season when Cal Can's inventory was at its highest annual level. Had it come in March the co-ops losses would not have developed because the fruit would not have been packed.

Was it bad business judgment as Ralph Nader suggests for Cal Can not to recognize the dangers in cyclamates and decide against packing its "Diet Delight" brand of fruit.

Parenthetically speaking, let me say that I asked Mr. Nader to come to my office on last Friday so I could point out the glaring misstatements of fact in his circularized memorandum to House Members. He promised to come in or call me. He did neither even though he was on the Hill speaking to congressional interns.

At page 80 of the hearings Willmott Hastings, General Counsel of HEW told Congressman WALDIE that placing cyclamates on the GRAS list was a stamp of approval by FDA.

Commissioner Edwards of FDA states clearly at page 87 of the hearings that FDA and only FDA has made the determination for the public at large that cyclamates were generally regarded as safe.

In 1967 an FDA "Fact Sheet" said:

There is no scientific evidence available now that shows that artificial sweeteners are a hazard to the health of man.

Though it is not offered as possible justification for indemnification, the claim by Mr. Nader and others that this bill will reward bad business judgment prompts me to refer to the published standards of identity.

A standard of identity is clearcut permission or license to pack and market according to certain standards.

Reference is made to section 27.14 for artificially sweetened apricots, the full text of which I insert in the RECORD at this point.

ARTIFICIALLY SWEETENED CANNED APRICOTS

(Promulgated March 19, 1959, Effective June 23, 1959)

§ 27.14 Artificially sweetened canned apricots; identity; label statement of optional ingredients.

(a) Artificially sweetened canned apricots is the food which conforms to the definition and standard of identity prescribed for canned apricots by § 27.10, except that in lieu of a packing medium specified in § 27.10 (c), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, calcium cyclamate, sodium cyclamate, cyclamic acid, or any combination of two or more of these. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

(b) (1) The specified name of the food is "artificially sweetened ----------," the blank being filled in with the name prescribed by § 27.10 for canned apricots having the same optional ingredient.

(2) The artificially sweetened food is subject to the requirements for label statement of optional ingredients used, as prescribed for canned apricots by § 27.10. If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin." When any organic salt or acid or any mixture of two or more of these is added, the label shall bear the common or usual name of each such ingredient.

Please note that official permission to pack with cyclamates was given. And there is a similar standard for nine other fruit products.

If a canner is required to comply with Standards of Identity, then is it not implicit that he has the right to rely on them?

In April 1969—at the beginning of the 1969 packing season—the National Academy of Science established an informal tolerance for human consumption of cyclamates. To reach this tolerance a human being would have to eat between 25 and 35 servings of cyclamate sweetened fruit each and every day.

In order to eat proportionately as much as the rats who triggered the cyclamate withdrawal, a human would be required to eat between 1,250 and 1,750 servings of fruit each day.

Was it bad business judgment to rely on a clear cut safety tolerance established by such a distinguished group as the National Academy of Sciences?

Remember that the study I have referred to was conducted with cyclamates and saccharin. Since then no study involving cyclamates alone has indicated that they cause cancer. Today there is a substantial weight of scientific opinion that cyclamates are not carcinogenic.

Mr. Nader is mistaken when he says that growers can be indemnified with Department of Agriculture section 32 funds. Cyclamate sweetened foods have been declared as unfit for human consumption. Obviously the Department of Agriculture will not buy them for distribution to the poor and for the school lunch program.

This bill will not establish a precedent. On September 28, 1971 FDA clearly warned in the Federal Register the processors can no longer rely on the GRAS list.

Mr. Chairman, under the laws of eminent domain where private property is taken for the public good the public pays the bill.

In our welfare program relief is given to individuals and are paid for by all taxpayers.

If disaster strikes individuals, relief is often given at public expense.

I don't cite these as being comparable to the instant case. But they are instances where actions in the public interest are paid for by all the public, not a small segment of the public.

In this case small growers through their co-op assert that they relied in good faith on a Government action. A subsequent Government action lawfully taken in the public interest injured them. Should they bear the full cost of an action in the public good, or should we all pay for it? I think the moral obligation is clear.

The Government's legal obligation must be proven in a court of law with the burden of proof on the claimant. All we do is give the injured the basic American right of having access to a court.

This bill is fair and in the spirit of fairness I ask you to support it.

Mr. STEIGER of Wisconsin. Mr. Chairman, will be gentleman yield?

Mr. GUBSER. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate very much the gentleman from California yielding.

Mr. Chairman, I associate myself with the remarks of the gentleman in his very extraordinarily clear, forthright, and concise remarks. I rise in support of the legislation.

Mr. Chairman, this bill to grant relief to farmers and processors who suffered losses due to the Government's ban on the use of cyclamates is indeed a legitimate authorization, and its indemnity process is closely guarded.

Cyclamate, prior to October 18, 1969, was listed on the Food and Drug Administration's generally recognized as safe—GRAS—list of substances. This designation has become to processors a governmental approval of the listed substances. Although this was not intended or stated in Agency policy on the working level in and out of Government, this was the case. In a letter to the distinguished chairman of the Judiciary Committee, Mr. CELLER, HEW Secretary Elliot Richardson stated:

Indeed the list appears to have been relied upon as an official assurance that listed substances were safe in fact.

Testimony before the Judiciary Committee further documents the fact that processors and cooperatives relied on the list. This situation contributes to the unique nature of the situation in that, as a direct result of Federal action, farmers and processors were misled to think the Government tacitly approved of cyclamates. American farmers continue to suffer from the totally unexpected banning of the substance.

I must emphasize the significant safeguards in this bill to prevent abuse. Those suffering loss must prove their loss as a result of the Department's ban before the U.S. Court of Claims. Claims which are approved for $100,000 or more must gain a special congressional appropriation. This, too, is significantly different from other indemnity bills we have considered.

Action by the Federal Government has created this hardship for a large number of farmers in the Sixth District, the State of Wisconsin, and throughout this Nation. This is a very unique situation and affirmative action on this bill is required to correct this situation.

Mr. Chairman, I am proud to be a cosponsor of this legislation which answers a serious need and does so in a safeguarded manner. I urge my colleagues to join me in passing this bill.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I, too, want to join in commending the gentleman from California in the well for his leadership and the manner in which he has presented his case in behalf of the people of California and, in particular, the small growers and grower-owned cooperatives who are going to be so adversely affected. I want to verify the facts he is presenting and associate myself, fully, with everything he has said and will say on the subject of indemnification for people adversely affected by the FDA cyclamate ban order made in the public interest.

Mr. WALDIE. Mr. Chairman, I yield 7 minutes to the gentleman from South Carolina, a member of the committee (Mr. MANN).

Mr. MANN. Mr. Chairman, I believe I see two or three people out there whose minds are not made up. I appreciate their presence.

Mr. Chairman, I regard with some amusement the phrase "his day in court." We have heard from the House's No. 1 lawyer, the gentleman from New York (Mr. CELLER) that he thinks the court of claims procedure will be an exercise in assessment rather than the determination of liability. We have heard the opinion of the gentleman from California (Mr. WIGGINS). We have also heard the opinion of the gentleman from California (Mr. WALDIE). The Members will now hear mine.

How does one rely upon the GRAS list in bad faith? If Members will answer that for me, then I think we can all agree that maybe it is not just an exercise in assessment, because if I walk into that court of claims with a bill that says if I relied on the GRAS list I am paid my direct and indirect costs, I will say, "Your Honor, I relied on the GRAS list and certainly I relied on it in good faith." What kind of knowledge would have to be charged to me to make me not rely on the GRAS list in good faith? There is no such thing.

The bill is an automatic payment upon your appearance on your day in court and your proof of damages—and I assume anyone will know how to do that.

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

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

Mr. LEGGETT. Mr. Chairman, is it not true the gentleman's point is that a great number of people knew there was something wrong with cyclamates prior to the time of the fact that it was taken off the market and there were a great many people doing research in this area? Is that not correct?

Mr. MANN. That happens to be a fact.

Mr. LEGGETT. So people were doing research in this area and if they had made discoveries concerning the carcinogenic properties of the commodity, then certainly they would not be in good faith and they could not come in under this act and make a claim. Would that not be a situation that would be differentiated from the example the gentleman recites?

Mr. MANN. I will say to the genman from California (Mr. LEGGETT), the record is clear, no one admits any knowledge of finding any damaging or carcinogenic qualities until October 1969. That is the fact.

Therefore, to charge anybody with knowledge prior to that time would be an exercise in futility.

Now that raises an interesting question with reference to the history of the carcinogenic nature of cyclamates. There were other problems, of course, with mutations and other things, but let us get down to the issue here.

Does all that really matter? It all bears on the equities, but the GRAS list was a creature of the FDA. The purpose of it was served when FDA said, "Based on newly discovered evidence you are no longer on the list." Then what do we have? Because they have been taken off of the list, they say, "You have to pay me." That is where we are.

Of course the GRAS list was not originally intended to insure perpetual marketability. We all agree with that. But the proponents say that by some intermediate course of conduct, because the FDA attempted to police that list, because they made an effort to police it, because they made an effort to update it, made an effort to determine whether that product that had not really been tested was safe, they are now estopped from being able to delist it, without paying those who are affected by that action.

I find that interesting.

I do not find the committee action in adding the words "good faith" very exciting, since I find in Secretary Robert Finch's letter of April 1970, in referring to the National Canners' bill, which is the one we end up with, those same words:

As we understand that case it rests upon the proposition that, inasmuch as food processors have used cyclamates in "good faith reliance" on their RAS listing . . .

So this "good faith" was proposed by the National Canners Association in 1970. It really does not introduce any new congressional test. Let us not hoodwink ourselves into thinking because we are sending this case to court that the Congress is not assuming the full responsibility for this appropriation.

This means we are deciding that the equities here overcome the law. On what basis do we decide that those equities are there?

Well, in deciding that certainly one thing is sure. We are depriving the future marketers of food additives of any incentive to market safe products.

What equities were changed in September 1971? This is really very humorous, when we examine the disclaimer published by FDA in the Federal Register on September 28, 1971. What equities did that change? How about the man who had his millions invested in his production equipment? After FDA said, "Well, you can no longer rely on the GRAS list," what then? He has relied on the GRAS list. He is in business. Who will pay him?

We can read the disclaimer on page 113 of the testimony, which the gentleman from California, Mr. GUBSER, read. Let us read it again.

The decision to use a particular GRAS (generally recognized as safe), food additive, or prior sanctioned substance in a food is a voluntary one. Proper economic planning for the decision * * *.

Was it ever intended that the Government relieve anyone of proper economic planning in the first place?

Proper economic planning for the decision should recognize that the substance and the food containing the substance may subsequently become unmarketable.

Did the Government ever guarantee it would not?

Because the substance has become newly recognized as posing a hazard to the public health.

"Newly recognized" is what happened in this case.

I conclude by again calling attention to the statement of Health, Education, and Welfare Secretary Robert Finch. It seems there has been a change of heart in certain circles about the bill.

The implications of the bill are farreaching and its enactment would inevitably be

persuasive precedent for a damage claim whenever the Government, for safety reasons, were to require that a product previously generally recognized as safe or otherwise cleared for use be withdrawn or withheld from the market.

(Mr. ROBINSON of Virginia (at the request of Mr. SMITH of New York) was granted permission to extend his remarks at this point in the RECORD.)

Mr. ROBINSON of Virginia. Mr. Chairman, I support the enactment of H.R. 13366 which would provide compensation to those who relied on good faith on the Government's approval of cyclamates for use in food. This bill would allow the growers, manufacturers, packers, and distributors of foods containing cyclamates, to seek indemnification in the court of claims for losses suffered when the use of cyclamates was banned on October 18, 1969.

Some have argued that compensation should not be granted because those who used cyclamates did so at their own risk, should have known that a ban was possible, and prepared for it. It is true that there were some allegations by scientists prior to the ban that cyclamates were unsafe. These allegations were not supported by solid evidence. The more respected scientific opinion represented by the National Academy of Science and the World Health Organization continued to approve the existing use of cyclamates in food up until the time of the ban.

The critical point, however, is that in the face of this scientific controversy, the users of cyclamates looked to the Food and Drug Administration for guidance. The Food and Drug Administration approved of the use of cyclamates in food in its published regulations, which were in effect up until the very day on which the ban on cyclamates was announced. The good faith reliance of the users of cyclamates on these regulations and on the judgment of the Government agency primarily responsible for the safety of foods was certainly the reasonable course.

Under the circumstances, the compensation of the persons so relying when the Food and Drug Administration was forced by operation of law to ban further use of cyclamates is only just and equitable.

Mr. SMITH of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, unlike Mr. GUBSER, I have no personal interest or conflict of interest in this bill. I am here in the interest of fair play. In my opinion, when a responsible person makes a mistake costing another person money, he should be pleased to correct that mistake. I think most of us do. In this case, in my opinion at least, the Government made a mistake. Those who suffer because of this mistake should, at least, have their day in court.

Mr. Chairman, I have heard the name California Canners & Growers Cooperative Association used on several occasions during the debate here today. I happen to know something about it for this reason: I have in my district a good friend, a warehouseman, who happens to have 114,000 cases of this fruit banned for sale at the present time. It belongs to this cooperative association. He has had it for about 3 years, and it has cost this company about $60,000 which they have paid him for warehousing it. He tells me its value is somewhere around three-quarters of a million dollars. It appears very ironic to me—and I hope Members pay attention to this—and he told me this morning, that just recently he shipped 60,000 cases of this to two of our friendly countries overseas. I have their names, but I do not believe it will serve any useful purpose to give those names. I know where they are. If we can ship it overseas, why can we not use it here at home? It is very ironic to me. Apparently it does not matter if we harm people overseas. I am one who believes that the little amount of cyclamates in this product will not harm anyone, but I say if it is harmful to people here, why should we allow it to be shipped to our friends across the pond?

Mr. Chairman, I support this bill. I realize it is a spending bill, and I oppose money spending bills, but in this particular case I believe it is a legitimate expenditure of funds.

Mr. WALDIE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. DONOHUE), the chairman of the subcommittee.

Mr. DONOHUE. Mr. Chairman, this bill H.R 13366 does not specifically provide a means for reimbursement to the domestic growers of California alone. It provides reimbursement for manufacturers, the manufacturers of cyclamates, the packers, the distributors, all as a result, as they claim, because of the actions of the Food and Drug Administration. What are the duties and responsibilities of the Food and Drug Administration? It is to protect me and to protect you and to protect all of us in the matter of the food and in the matter of the drugs which we have to consume in order to sustain life and health.

This is a bill to reimburse commercial interests, business interests that have been going along since 1950 using cyclamates for profit—and you can be assured they made enormous profits—and they were making these profits when the Federal Drug Administration came out with this ban.

The question is: Is there any responsibility or any obligation on the part of a person that uses additives, be they chemical or otherwise, to food and drugs? Well, I assume that everyone is presumed to know the law. In 1958 this Congress passed the Delaney Act. To those of you who are not familiar with the Delaney Act let me read it to you.

It provides that no additives shall be deemed to be safe, whether it is on the GRAS list or not, if it is found to induce cancer when ingested by man or by animal, or if it is found after tests which are appropriate for the evaluation and the safety of the food additives to induce cancer in man or animals.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. DONOHUE) has expired.

Mr. WALDIE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Massachusetts (Mr. DONOHUE).

Mr. DONOHUE. Mr. Chairman, I submit to the Members of this House that the opposition is justified in opposing this legislation because it would compensate a specific group of claimants for business losses incurred after our Government took valid and necessary action as directed by law under the Delaney Act.

The bill H.R. 13366 would provide the means for reimbursing commercial interests for costs incurred when products containing cyclamates could not be marketed because the U.S. Government banned the use of cyclamates, a food additive, because of the danger they posed to the health of our citizens. I oppose this legislation because it would compensate a specific group of claimants for business losses incurred after the Government took valid and necessary action as directed by law. The law required the Government under the Delaney Act to act to protect the citizens of this country after cyclamates were proven to cause cancer in animals in laboratory tests.

While the bill is drafted in the form of a jurisdictional bill, its obvious purpose is to utilize the Court of Claims as the means to fix the amount of costs directly or indirectly attributable to products of claimants affected by the ban. It must be emphasized that there will be no occasion in those proceedings to test the validity of the Government's action. The validity of that action is in fact conceded. The court would merely be called upon to compute the amount under the somewhat vague standards of the bill and then to enter judgment.

The history of this matter discloses that many years before the ban questions were raised concerning the use of cyclamates and their safety for use in food. Almost throughout the history of their use, scientific reports indicated that cyclamates should be restricted to special diets.

Later, it was recommended that the indications of potential harm were such that the amounts of cyclamates consumed by children and others should be strictly limited. Disturbing indications as to serious effects on the human body were made well in advance of the 1969 ban on their use by the Government. In the face of all this, the widespread use of cyclamates by food processors in the period prior to 1969 can only be regarded as a situation in which commercial interests took an unwise business risk primarily prompted by prospects of profit. I do not feel that this history establishes the equitable basis for the Government to assume the responsibility to pay the many millions of dollars of compensation which would be authorized by this bill.

I say that this is not a matter of equity because I say that by permitting them to go into court under the circumstances provided in this bill they are going in merely on a question of damages, and the Government should not be required to pay damages unless it has committed a wrong, and I submit that our Government did not commit any wrong when it saw fit to place a ban on something that was most injurious to the health of the general public.

Mr. SMITH of New York. Mr. Chairman, I yield such time as he may con-

sume to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, in expressing my support for this legislation, H.R. 13366, I want also to question the wisdom of that governmental action which required the destruction of large quantities of products containing cyclamates—resulting in the losses which are sought to be reclaimed under this legislation.

Mr. Chairman, charges which have been made against this bill include claims that cyclamates in food products rendered those products contaminated and dangerous. My attention has been drawn to a charge by the Consumer Federation of America that products containing cyclamates are "contaminated"— and that cyclamates is cancer causing.

Mr. Chairman, except for the research conducted by Abbott Laboratories itself—which revealed no danger to humans whatever, there would be no basis for the FDA to order cyclamates withdrawn from the GRAS list. The experiments which resulted in developing a carcinogenic condition in the bladders of rats when injected with large amounts of cyclamate did not, in fact, establish proof that cyclamates constitute a contaminant in food, or are dangerous to humans. The fact that cyclamates were employed for a period of at least 20 years without any evidence of injury to humans is convincing proof that a contamination charge is without foundation.

Mr. Chairman, the charges revealed by the so-called National Health Foundation are even farther afield. It is claimed in a letter from that organization dated April 24, 1972 that "birth defects were caused by cyclamates." There is, of course, absolutely no evidence that any human birth defects of any kind or at any time were related in any way to human consumption of cyclamates.

A communication from Ralph Nader dated March 22, 1972, is replete with inaccuracies. For instance, on page 6 of his letter, he charges that "producers of cyclamate products escape paying charges for the harm inflicted on consumers."

Mr. Chairman, Ralph Nader should know if he has made even a cursory examination of the record that there is absolutely no evidence that any consumers were ever damaged by consumption of cyclamates. Quite the contrary, it is established that literally millions of Americans were able to carry out weight control programs by consuming products containing cyclamates instead of being damaged by overweight and suffering all of the consequences which result when sugar is employed as a sweetener instead of the calorie-free cyclamates which Abbott Laboratories developed and produced.

Mr. Chairman, it takes very little thought to recognize that excessive amounts of sugar can produce extremely critical health problems. Yet we are not condemning sugar as a contaminant, and we do not propose to subject it to the same requirements as cyclamates. Yet if we regard use of cyclamates fairly—on the basis of the scientific evidence which has been produced—we will conclude that cyclamates have never been known to cause any serious harm to a single human being, and the industry which developed and produced it should not today be criticized unfairly or inaccurately.

Mr. Chairman, let me state in its behalf that the scientific research which resulted in the withdrawal of cyclamates from the GRAS list was conducted by Abbott Laboratories itself. I am not here complaining about the action which the Food and Drug Administration has taken but I do defend Abbott and its customers, and the various producers of food and drink products who used cyclamates until prevented by the FDA. I support the case of those innocent victims of governmental action which this legislation seeks to remedy in order that they may be permitted to present their claims to the U.S. Court of Claims. I rather doubt that Abbott Laboratories itself will ever present such a claim. However, in equity and in justice, it should not be deprived of this right any more than any other company, large or small, should be deprived of the benefits of this legislation. In the final analysis, I believe for the most part it will be the small producer who will be protected by the action which I hope the committee will take today in the passage of H.R. 13366.

Mr. SMITH of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I note on page 7 of the report it says that:

> At the hearings conducted on the legislation the potential cost was estimated at between one hundred million and one hundred and twenty million dollars.

My question is to someone on the committee because in the bill it states that "the claim is for losses sustained by growers, manufacturers, packers, or distributors."

Now surely we would have a list of how much would be claimed by each group and what they could collect because of damages to their organization. Does anyone have the particular information?

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

Mr. MILLER of Ohio. I am glad to yield to the gentleman.

Mr. SISK. I thank the gentleman for yielding.

This breakdown simply goes to various segments, three segments, basically that would be affected by this.

The canners, according to the Department of Commerce—let me say that these figures are basically from the Department of Commerce and not as some have charged from some of the direct participants—and these figures would indicate the maximum in connection with the canners would be $35 million.

Now they indicate they do not think it will run more than $33 million, but at the outside the ceiling would be $35 million.

The soft drink manufacturers again in connection with this estimate, as you understand, assuming claims are filed, could run between $30 million and $35 million.

The third part where an estimate was encouraged has to do with the dietary food people. This is a more difficult area in which to estimate, but the best estimates of the Department of Commerce is that this figure would run as a ceiling from $40 million to $45 million.

You see, that brings you up to approximately $120 million that we considered as the absolute ceiling.

I would conclude by again thanking my colleague for yielding and state that based on the best estimates actually that we have on behalf of the industries affected themselves, I do not believe it will ever approach $100 million at this late date.

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

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. CELLER. In the hearings, on page 41 we were told that the Department of Commerce has no estimate of what the losses will be.

Beyond that there is no one who can tell us the number of claimants who will claim damages in the Court of Claims. We do not know the number of claimants whatsoever.

It is like a blind man looking for a black cat in a dark room.

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

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. GUBSER. On reading further on page 41, it says:

> Mr. Chairman, if you will note in our statement we say that is from industry sources. It is not an independent figure of ours. We have asked the bottlers, the canners, the people who produced the cyclamates, to give us an estimate of what their losses actually are. I would not put that figure forth as one which the Department has arrived at by any analysis.

These are estimates by people who incurred losses.

I might add further, if the awards are made, they will be subject to taxes and in the case of a corporation—a 48-percent tax.

So we should consider the net impact on the Treasury, which will be considerably less than $120 million.

Mr. WALDIE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, on October 18, 1969, the then Secretary of Health, Education, and Welfare, Robert Finch, announced a ban on the use of cyclamates as an artificial sweetener. This action, though accompanied by assurances that there was no evidence of danger to humans, has had an estimated cost to canners in this Nation of approximately $100 to $120 million. The necessity for this cyclamate indemnity legislation was brought clearly to my attention by the specific inequity which occurred with respect to fruit canners and growers within my district and throughout California. The canners of fruit stand to lose $33 million if legisla-

tion is not passed to rectify their loss. This loss has been felt dramatically by not only the canner but also by the growers of fruit. This bill, of which I am cosponsor, would provide a fair and equitable means of helping to relieve the burden of this loss.

The loss, after all, was incurred as a consequence of the action of Government. The food producers and canners affected operated entirely in good faith and within the law in relying on the Food and Drug Administration's generally regarded as safe—GRAS—list. The losses were taken through the market, but were caused by Federal intervention rather than the natural forces of the market. The Federal Government has a moral obligation to reimburse losses which result from official Government actions.

It has been contended that this reimbursement would set precedent which would, in turn, serve as a stimulus to or a reprieve from bad management and health practices on the part of the food and drug industry. I cannot concur with this position.

There are several existent precedents for taking such action. In 1959, the Agriculture Department paid $10 million to compensate cranberry growers when they took losses as the result of an announcement by the Secretary of HEW destroying public confidence in cranberries. Shortly after that, compensation was similarly made in a case involving the use of stilbestrol on certain poultry products. In 1964, dairy farmers were compensated for dairy products removed from the market because of residues from chemicals which were registered and approved for use by a Federal agency. The precedent is clear—the enactment of H.R. 13366 would only extend to those food growers and canners hurt by the cyclamate ban the same kind of indemnity the Federal Government has previously given to others in similar cases.

In addition, all executive departments involved support this legislation. The Agriculture Department, the Department of Commerce, the Department of Health, Education, and Welfare, the Department of Justice, and the Office of Management and Budget have all expressed their approval in letters to the Committee on the Judiciary. Furthermore, on the basis of all the facts, the bill was approved in subcommittee and by better than a two to one margin in full committee. The wide support this legislation has attests to its fairness and merit.

This legislation is not a give-away bill. Reimbursement for lost profits are specifically barred and all claims must be justified. Ample safeguards have been provided in the legislation against unreasonable claims. Any judgment in excess of $100,000 must be submitted to Congress for its approval through the appropriations process. Any claims of less than $100,000 will come under the jurisdiction of the U.S. Court of Claims. Indemnification will be dependent on a finding by the Court of Claims that claimants relied in good faith on the Federal Government's listing of cyclamates as a "generally recognized as safe" substance.

I would like to commend the Committee on the Judiciary for its intensive examination of and eventual affirmation of H.R. 13366. The action of the committee in relation to this bill has contributed to my high esteem for the Committee on the Judiciary as a whole and for its members as individual legislators.

In the name of equity I respectfully urge your support.

Thank you.

Mr. WALDIE. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I am opposed to H.R. 13366, the cyclamates ban compensation bill now before us. I think a better title for this measure would be the "cyclamates bailout" bill, to borrow from another Government giveaway to big business of recent memory. Here, however, unlike the Lockheed situation, no arguments of national security can be advanced, nor can it be argued that the Government was at fault.

When a bill comes before us which, by the admission of its proponents, would cost the Federal Government substantially more than $100 million in cash payments to profitmaking corporations, for which the Government and the people would receive nothing in return, I think we have a special duty to examine it carefully.

The theory of this bill is that, first, there were some manufacturers, packers, and distributors who relied on a Food and Drug Administration list which at one time included cyclamates among the substances considered to be food; second, they were entitled to rely on this list; third, when the FDA banned cyclamates as dangerous to human health those corporations were taken by surprise; and, fourth, the Government has a duty which, although not embodied in any existing law, requires it to indemnify all businesses which suffered losses as a result of their commerce in this dangerous substance.

Mr. Chairman, the evidence before our Judiciary Committee simply does not justify any of these conclusions. The evidence disproves all four conclusions. That evidence is, of course, contained in the hearings and report which are available to every Member. I urge you to review those documents carefully before voting on this giveaway. An impartial study of the evidence will lead you, as it has led me, to conclude that there is no factual basis or legal basis for such an extraordinary dole of taxpayers' money to these claimants, a dole which may cost more than $300 million, which will cost at least $100 million by the most conservative estimate, and which will be of no benefit to the citizens of this country.

There is an issue presented by this bill which is much larger than $300 million or the profit statements of soft-drink manufacturers, however. That issue is whether the Government should be expected to indemnify corporations which have engaged in commerce in products which Government agencies conclude pose a danger to public health or safety.

Have we suddenly reversed the entire basis of commercial judgment and business risk upon which our free enterprise system is predicated? Have we determined that the Government is an insurance company holding a policy on misjudgment by businessmen? Have we considered the likely consequences if businessmen can rely on the Government to reimburse them for investments in products which cause injury and disease?

Such a policy would be against the public interest by any measurement of that interest.

Cyclamate merchants knew for years that this substance had safety risks. If we vote to reimburse them for ignoring their independent foreknowledge we will be inviting businesses to ignore their own better judgment, make as much money as they can selling dangerous products, and finally seek indemnification from the Government when the evidence of danger becomes so overwhelming that the Government takes the drastic step of flatly forbidding commerce in the dangerous substance.

Even if these claimants had not known cyclamates are dangerous, it would be wrong to indemnify them. Our policy should be to encourage businesses to conduct research into the safety of the products they sell, not to discourage them.

Ralph Nader has said:

> The government must rely on businessmen for their part in assuring the safety of their products. The food industry is a $125 billion-a-year industry. The FDA has only $43 million this year to police food hazards, 1/3000 the scope of the industry.

It seems to me that if we put this massive indemnification program into effect the inevitable corollary will be a massive increase in the size and budgets of regulatory agencies. Without traditional self-regulation and self-restraint on the part of businesses, we will need a vastly increased Federal bureaucracy to take up the slack.

We must also ask ourselves how free and forthcoming will be the conscientious scientists and administrators of our regulatory agencies if they know that their decisions to protect public health will cost the Government hundreds of millions of dollars?

There is no merit whatsoever in the argument that this bill would merely bring those who believe themselves injured before the court of claims for adjudication. As we pointed out in the dissenting statement in the report on this bill:

> It can clearly be seen that the only real function of the Court of Claims will be to assess damages.

The right to collect those damages being conclusively established by this bill.

If we pass this bill, Mr. Speaker, I hope the proponents will support an increased budget for the Sergeant at Arms of the House, because we are going to need a lot of assistance in controlling the long line of claimants from every industry and every walk of life which will form at the door of the Judiciary Committee.

I insert at this point in the RECORD Ralph Nader's well-reasoned letter of opposition to this bill:

MARCH 22, 1972.

The Honorable EMANUEL CELLER,
Chairman, House of Representatives, Committee on the Judiciary, Washington, D.C.

DEAR REPRESENTATIVE CELLER: Last week, Subcommittee Number Two of the House of Representatives Committee on the Judiciary approved legislation that allows reimbursement of alleged losses that manufacturers and distributors of cyclamates incurred when the substance was banned in 1969.

This bill, H.R. 13366, is a serious injustice to the nation's consumers and a serious threat to public health policy. Its enactment would be crass precedent for reimbursing other alleged economic losses from reasonable government exercise of the police power, and a deterrent to effective federal agency action on environmental hazards.

For the above reasons, I direct your attention to H.R. 13366, asking that the Committee on the Judiciary fully explore its ramifications, a course of action which should persuade the Committee to decisively reject this ill-conceived legislation.

The bill authorizes the U.S. Court of Claims to indemnify losses that growers, manufacturers, packers, and distributors suffered in "good faith reliance on the safety" of cyclamates by virtue of "its inclusion and continuance on the list of substances that are generally recognized as safe . . ." It has been supported by the National Canners Association, which wrote the bill, the Soft Drink Industry, the Glass Container Manufacturers Institutes, Abbott Laboratories, and others.

The cyclamate industry justifies its pleas for indemnity of losses by raising the spectre of sudden, arbitrary governmental action in banning cyclamates. There is no such spectre here. Like most cases of government safety regulation, signals of a cyclamate hazard have been developing gradually over many years. Strong clues were available to a sensible businessman to contract rather than expand his cyclamate market, and to develop alternative "diet" products.

The industry was first put on warning in 1951, when FDA scientists published a study of artificial sweeteners which reported unexplained tumors in their cyclamate-test rats. In 1955, the Food and Nutrition Board of the NAS/NRC, in a public report, warned that cyclamate use should not be expanded, since its long-term safety was unknown and since it exhibited impressive physiologic activity. In 1962, the Food and Nutrition Board reiterated its warning: "The priority of public welfare over all other considerations precludes . . . the uncontrolled distribution of food stuffs containing cyclamate."

These warnings were repeated by the NAS board in 1968. In 1966, Japanese scientists reported that cyclamates could, passing through the body, create a different chemical called cyclohexylamine (CHA) a chemical so dangerous that the FDA had, in 1958, established a tolerance level of 10 parts per million of CHA in certain food-processing procedures. A scientist at the University of Pittsburgh reported that in persons whose systems converted cyclamates into CHA, CHA was introduced in amounts of from 20–500 ppm or more. A packet of artificially sweetened Kool-Aid converts to 3,200 ppm of CHA in a significant portion of the population.

In 1967, the World Health Organization recommended a restriction of cyclamate intake. In March 1968, an FDA scientist reported a firm relationship between cyclamate injected into chicken eggs and deformities of embryos taken from the eggs. She found that cyclamate is a "specific teratogen, having the ability to produce phocomelia and similar defects in the [chicken] embryos".

In the same year, 1968, the year before the ban, a respected FDA cell biologist received wide publicity when he reported his finding that small amounts of cyclohexylamine produce chromosome breakage. Other danger signals available to the food producers before the ban included these:

1. A study showed that regular use of cyclamates might disrupt effects of anticoagulants in humans, perhaps through inhibiting Vitamin K effectiveness, an effect that would cause bleeding problems.

2. Cyclamates affect the intestinal tract, causing softening of the stool.

3. Cyclamate use causes a change in the way the body absorbs certain drugs by, for example, affecting the way substances bind themselves to plasma, probably altering drug effectiveness.

4. Cyclamate absorption into the body is increased by consumption of caffeine, fats, citric acid; cyclamates are distributed through breast milk and the placenta.

In addition, it was discovered that a significant proportion of food grade cyclamates contained CHA, so that even those people who do not convert cyclamate to CHA are likely to be exposed to it.

In 1968, the NAS committee issued another report, again warning that the long-term safety of cyclamate was unknown and cautioning against the unrestricted use of cyclamates. In April, 1969, the FDA announced that no adult should consume more than 3.5 grams and no child more than 1.2 grams cyclamate daily. In the fall of 1969, a new study showed conclusively what earlier studies had suggested—that cyclamate caused bladder cancer in rats. In October, 1969, FDA banned all cyclamates in food, a ban which was partially rescinded and then reinstated in September, 1970.

Virtually all of the industry's testimony to the Judiciary subcommittee emphasized the element of surprise at the cyclamate ban. This was the basis of their argument that the ban was arbitrary, and that they should be paid because the government was at fault. In view of the scientific hazard signals apparent for over 15 years before the ban, these arguments for indemnity can only be called fatuous. Further, food products containing cyclamate during all those years were required to bear the label: "should be used only by persons who must restrict their intake of ordinary sweets." How could the producers of such products NOT know that safety doubts had arisen?

Moreover, most of the manufacturers were prepared for the ban. Pepsi-Cola had readied a new diet drink without cyclamates one year before the ban. Coca-Cola told the New York Times that it was equally well prepared. "Taking out insurance" was the way Coca-Cola President Charles Adams described the readiness of Coke's new diet product when the ban was announced. "We've been working with [alternative] artificial sweeteners since the early sixties." These companies had diet drinks without cyclamates on grocery shelves inside of a week, as did Cott and No-Cal. One cyclamate grocery producer, the Alberto-Culver Company, stated: "We made a prudent decision months ago to develop a reformulation of our product without cyclamate content. This we have done and we will begin distribution of the reformulated product before the government deadline."

Now the cyclamate industry is hustling indemnities on the basis of the suddenness of the ban, waving a banner of arbitrary governmental action in spite of the long years of warning. Tests since the ban have further amplified the evidence of danger available in 1969.

The industry also claims the government owes it money because cyclamates were in the Generally Recognized as Safe List. GRAS status for a food additive is not, and never has been, a guarantee by FDA of perpetual marketability of a product, much less a free insurance policy. The FDA has never represented it as such. It is a technical category of substances exempted by the 1958 food additives amendment to the Food, Drug, and Cosmetic Act of 1938 from the necessity of filing food additive petitions before marketing. It constitutes no stamp of approval whatsoever. The government has never encouraged any manufacturer to use GRAS substances or manfacture foodstuffs using cyclamates. By exempting a substance from filing food additive petitions, the government does not solicit the marketing of any substance on the GRAS list. That the food industry has used GRAS status as a sales gimmick in marketing their additive products must not obscure its legal meaning or the lack of negligence or misrepresentation on the part of FDA. An FDA determination that a substance need not file a food additive petition is not government endorsement of a product. It is a determination that at that point in time, evidence of possible hazard does not exist. The principle at stake here is extremely broad. If the government puts itself in the position of guaranteeing a product in its routine product safety surveillance, the industry is completely absolved of responsibility for its products. Some degree of self-restraint by industry is essential to the public health. Th government must rely on businessmen for their part in assuring the safety of their products. The food industry is a $125 billion-a-year industry. The FDA has only $43 million this year to police food hazards, 1/3000 the scope of the industry. There is, given the limited scope of any Federal agency, no way to completely assure the public health unless the private sector assumes a prudent responsibility itself.

Indemnities deprive manufacturers of all incentives to market only safe products. Under ordinary market conditions, a manufacturer is compelled to keep up to date on all the latest literature on the subject of safety. Should doubts arise, he has financial reason to improve his product to erase safety doubts, or to find alternative products, lest he be burdened with unsalable goods if the product is restricted. The availability of indemnities destroys self-control by members of the industry. A government act to protect the public health is always preceded by the duty of the company to have acted voluntarily or be subject to the risks of negligence or of the marketplace. Indemnities make the entire responsibility for product hazards rest upon the government and the taxpayer.

How can the Congress refuse to indemnify manufacturers of other products once the cyclamate industry has been indemnified? Won't a Congressman be charged with discrimination against all other industries if their products are withdrawn from the market and he refuses indemnities for them? Indemnities are, once started, an unending demand. Since Lockheed, industry has begun to pressure the House for them, as witnessed by the blanket indemnification provision for all pesticides banned because of "imminent hazard" to the public health in the Pesticide Control Act presently under Congressional consideration.

The indemnity principle pays industry to stop marketing poisonous products. Do we really want to pay a businessman who has inserted into our food supply a product which may result in serious disease? Is this not like covering income losses that a criminal will suffer when we convict and imprison him? Are not indemnities virtually encouraging disregard for the public health? Do they not ensure that the level of marketplace hazards will soar upward?

Expected claims under this bill amount to over 100 million dollars. Should taxpayers pay $100 million to industry just because it had to stop putting a carcinogen, teratogen and mutagen in their food supply? If any bill provokes a taxpayer revolt, it will be this raid on the Treasury. Imagine any member of this Committee having to explain this monstrous special interest bill to his taxpayers, citizen constituency. Really, how could he justify it against a thousand infinitely more just ways such as supplying

kidney machines to save the lives of over 7,000 Americans a year who die because these machines are too limited in number.

Industry representatives at the hearings, with one exception, refused to state for the committee exactly how much money they would claim. California Canners and Growers did state they would claim about $15 million. But the massive interests, Abbott Laboratories, the Soft Drink Industry, and the National Canners Association, did not even estimate for the record the amount of money they wanted. The reluctance of the large claimants to state their sum further confirms the suspicion that the $100 million estimate is just for starters.

If it is determined that small farmer groups suffered losses which they should not bear, there appear to be two appropriate remedies available, which would meet their burden without enlarging the pockets of the large industries. First, the U.S. Department of Agriculture under 7 U.S.C. § 612C(3) has authority to make payments to farmers in distress. This provision was used to aid cranberry growers when FDA issued contamination warnings in 1959. Second, the Congress could provide an explicit cause of action by buyers of bulk chemical products whose products are unsalable against the manufacturers of the chemicals. Such a cause of action would increase the incentive for primary manufacturers to assure the safety of their goods. It should be noted that all buyers of Abbott Laboratories bulk chemical products, including cyclamate, sign contracts which have Abbott expressly disavowing warranties of safety.

Finally, the Committee should recognize that this bill, if passed, would constitute significant and ominous precedent for government assumption of a new obligation to recompense for economic injury resulting from reasonable exercise of the police power. Traditionally, the Congress has adhered to the constitutional distinction between reasonable police power and a "taking". This enormous obligation should not be taken lightly. It certainly should not be undertaken in the case of the cyclamates, products replete with potential hazards to the estimated 75 million innocent consumers who ingested them, for sellers who for years ignored blatant safety questions. Sell now, worry about consumer health later, can hardly be a basis for government indemnification. Not only do the producers of cyclamate products escape paying damages for the harm inflicted on consumers, but they want the taxpayer to pay them for their negligence. What a brazen presumption.

H.R. 13366 is one malodorous rhetorical question, to which there can only be one answer, whether in an election year or not. That answer is a resounding no!

Sincerely,

RALPH NADER.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., July 21, 1972.

DEAR CONGRESSMAN: Consumer Federation of America must oppose HR 13366, providing indemnification to the cyclamate industry. We do not believe that such financial losses should be paid by the Federal Treasury.

Consumers suffered risks to their health for many years because food manufacturers added cyclamate before they had adequately tested its long-range effect. Cyclamate was produced at a rate of 17 million pounds annually, according to one survey, reaching 76% of all families in the U.S., without adequate testing.

This chemical was pumped into the food supply even though, as the National Academy of Sciences Food Protection Committee reported, cyclamate was cancer-causing, was suspected of causing gene mutations, and caused birth defects in animals.

The cyclamate industry should not be rewarded for adding a substance with these serious risks to our food. If they are reimbursed with taxpayers' money, Congress will be rewarding incomptent business decisions and disregard for consumers' health.

Paying the cyclamate industry will establish a precedent for government obligation to pay all manufacturers when the government restricts products because they are dangerous. Congressmen will be unable to refuse other constituents asking for like favors.

The Federal government covered cranberry growers and milk losses in 1959 under the Agriculture Department's authority to assist small farmers (7 USC § 612 c(3)). The cranberry industry was not the beneficiary of special legislation. In that case, some cranberries which were contaminated with a cancer-causing weed killer, aminotriazole, were mixed with safe cranberries. FDA had to warn consumers not to buy any cranberries, because it could not isolate the safe crop from the unsafe.

The cyclamate indemnification bill would set a precedent for paying those whose products were *contaminated* by cyclamate, not those whose products contained no risk to health.

Sincerely,

ERMA ANGEVINE,
Executive Director.

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

Mr. DRINAN. Yes, I will yield to the gentleman from California.

Mr. GUBSER. I think the gentleman is very confused when he brings cranberries into the situation. In the situation he refers to the cranberries were not tainted generally. A small lot of them were tainted, but the publicity about that small lot tainted the marketability of the remainder. The Department of Agriculture used section 32 funds to buy untainted cranberries for distribution to the poor and to the school lunch program, but they could not by law purchase cyclamate sweetened fruit.

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

Mr. SMITH of New York. Mr. Chairman, I yield the gentleman one additional minute.

Mr. DRINAN. I suggest that the distinguished gentleman from California has not sufficiently researched the precise section, title VIII of the United States Code, section 612. There is a reference to this matter in the dissent of the Judiciary Committee. A remedy for farmers does already exist. I suggest that the other three groups who, if this bill passes, will have their day for collection—the manufacturers, the packers, and the distributors—are behind this bill. That is one of the many reasons why Secretary Robert Finch, who opposed it as Secretary of HEW, is now in favor of it.

Mr. GUBSER. Will the gentleman yield further?

Mr. DRINAN. If I have the time; yes.

Mr. GUBSER. The farmers who are hurt belong to a co-op. This is a corporate entity, and they happen to own the co-op, but they, as individuals, cannot come to the Department of Agriculture and secure indemnification.

It can only be secured through the corporate entity so the situation which the gentleman is describing is totally different from the type of relief which is given to farmers under agricultural law.

Mr. WALDIE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Chairman, I wish to commend to the Members of the House, the bill under consideration today, H.R. 13366, which would provide the legal framework and machinery to expeditiously correct a great error of timing of the Food and Drug Administration's ban on products containing cyclamates.

The cyclamate ban was announced on October 17, 1969, and put into effect on September 1, 1970. I do not quarrel with the substance of the cyclamate ban itself, as the FDA acted with propriety to protect the American consuming public from a health danger.

But, I do question the timing of the ban, which came after the harvest and canning cycle was underway and for the most part finished. The October announcement left thousands of growers, manufacturers, packers and distributors holding large inventories of processed foods containing cyclamates. Though the ban provided a grace period during which these products could be marketed, the buying public was warry of purchasing these products—even at sometimes discount prices.

As a result of the ban's timing, which came without sufficient warning, a great economic harm was placed upon the agribusiness community across the Nation and in the 15th District of California, which I have the privilege to represent.

National estimates show that there were $111 million in direct losses which include $32 million to the canning industry, $34 million to the soft drink industry, and $45 million to all others, including individual growers.

Some of these losses were sustained by corporations, which have tax writeoff benefits, though such losses cannot fully be recovered by tax adjustments.

Nonprofit agricultural cooperatives, which form a key element of the economy of this Nation and quite profoundly in the 15th District of California, have no writeoff privileges and must fully sustain losses resulting from the ban.

Not only have the cooperative organizations sustained losses, but the individual farmer-members have been hit hard by the ban, with an average direct loss of $7,000 each.

For example, one of my cooperatives has advised me that the cyclamate ban resulted in about 530 growers in northern California sustaining $1.4 million in losses over and above $2 million in additional losses in 1969 due to other factors.

One constituent, out of many who wrote me about their economic hardships because of the ban, said that it resulted in a direct $3,000 loss for his family which operates a 90-acre peach ranch.

These examples briefly indicate the type of the losses which have occurred to the growing-processing-distributing community in the 15th District and the Nation.

Once again, I must emphasize that the

ban was ill-timed and because it was an action of a Federal agency, we in the Congress have a duty to provide for the correction of this error.

H.R. 13366 would perform this task. It provides that claims for losses can be submitted to and processed by the Court of Claims under procedures already provided by statute and policy.

These claims would be for direct economic losses and not for profit losses.

The bill also provides that suits can only be brought before the Court of Claims within 1 year from enactment. This provision is important for it would allow for the most expeditious resolution of the claims.

I am also encouraged by the fact that various administrative agencies have either supported this legislation or have not raised objections to it in reports to the Judiciary Committee. These agencies include: the Department of Commerce, Department of Agriculture, Department of Health, Education, and Welfare, the Department of Justice, Office of Management and Budget, and Department of the Treasury.

I believe that H.R. 13366 is an important measure designed to provide for a responsible method to correct an economic injustice to many in the agricultural community and I urge its favorable consideration by my colleagues in the House.

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

Mr. Chairman, all I can suggest to the preceding speaker is that if the farmers were entitled to recover from any source other than this form, the gentleman can rest assured that is where they would be seeking to recover. That was the first bit of advice given them, assuming that this was similar to the cranberry situation. They did inquire of the Department of Agriculture and were told there was no possibility of recovery under that act. It is entirely possible that the Department of Agriculture was incorrect, but that is the advice they had to take from the Department, and that their lawyers confirmed, so they are here not as a cover or as a front for some special interest. They are here because they were damaged and had no other place to go.

The gentleman also suggested businessmen for 15 years ignored the warnings about cyclamates. If the businessmen ignored the warnings about cyclamates, what did the Government do? If business is culpable in this instance, then Government is even more culpable. Government is the one that persisted in maintaining this item on the GRAS list, as generally recognized as safe.

Members can say what they like about the GRAS list. They can place it wherever they want to place it in terms of the importance of things, but the fact is that the Commissioner said and the counsel for the Department of Commerce and the Department of Justice all said that the GRAS list was such that the people who were using cyclamates did in fact rely on it.

So if all this volume of knowledge were available to the business community, it just as certainly was available to the Government and the Government is culpable.

Why do we shrink from accepting the fact that the Government can be culpable? Why do we suggest there is something wrong about suing the Government? We are hung up on the old medieval concept that the Government can do no wrong. The sovereign has done something wrong. The sovereign did a great deal of wrong and caused a great many people to be damaged. If the claimants knew of this vast body of knowledge, as the gentleman from Massachusetts claims, they cannot recover.

It has been suggested by far more knowledgeable legal minds in their body than I possess, that good faith is something that cannot be proven in court. That is nonsense. In the case of a negotiable instrument one is required to go into court and the presumption is that one obtained it as a bona fide purchaser acting in good faith. The presumption is it was a reliable instrument because one is a good faith purchaser. Then one is subject to the disability of being disproven as having been a bona fide purchaser, and they can show intervening evidence that shows one purchased the negotiable instrument with knowledge of its defect, and then one cannot recover on that negotiable instrument.

That is what we have provided by the committee amendment. We go in presumably as a good faith claimant and relying on the GRAS list, and we do as the gentleman from South Carolina (Mr. MANN) suggested, and we say, "Mr. Commissioner of the Court of Claims, I relied on the GRAS list and therefore I am presumptively a good faith claimant." Then the burden shifts to those who are contending we are not in fact good faith claimants, the Government, and the Government must show we had this vast body of knowledge everybody talks about. If they show it, we have no business whatsoever relying on the GRAS list. Even though the Government was very, very defective in its responsibility to keep the GRAS list current in terms of its warranties to the people, they relied upon it. We ought to permit the citizens who have been injured by their Government to go into court and seek redress for that injury.

Mr. SMITH of New York. Mr. Chairman, at this time I have no further requests for time, and I reserve the balance of my time.

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

Mr. SMITH of New York. I am glad to yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I should like to associate myself in support of this bill.

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

Mr. SMITH of New York. I am glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I should like to associate myself with the remarks of the gentleman from Massachusetts (Mr. DRINAN) in opposition to the bill.

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

Mr. SMITH of New York. I am glad to yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I should like to agree with my colleague from California and particularly to point up that the Fountain committee found out in October 1970 that the Food and Drug Administration had failed for several years to protect the public against possible health hazards associated with cyclamates despite a clear obligation to do so, and that is the basis on which we make this claim.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

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

Mr. EDWARDS of California. Mr. President, I wish to associate myself with the remarks of the gentleman from California (Mr. WALDIE) and urge approval of the bill.

My fellow colleagues: There is an old saw in the law that says "hard cases make bad law." I am not certain of the verity of that homily, but I do know that we are certainly faced—no less than the courts—day in and day out with hard cases.

On the fact of it, H.R. 13366 may appear to be a hard case, but I do not subscribe to any theory it will create bad law. You are not being asked by your support of this bill to make the determination whether or not these potential claimants have a good and valid claim; you are not being asked by your support of this bill to even appropriate any specific sums of money in the event they do have a valid claim and provable damages. You are being asked by your support of this bill to allow these claimants access to the U.S. Court of Claims where they may then have the opportunity to prove their claims and sustain their damages.

This bill specifically provides that to sustain their claims, the claimants will have to prove to the court's satisfaction, that the claimants relied in good faith and to their detriment on the confirmed official listing of cyclamates as generally recognized as safe for use in food.

Inherent in this provision is the fact that the court can, in the absence of sufficient evidence to the contrary, rule adversely to all of the claimants, if it were to find that the reliance, was either not in good faith or misplaced or not to the detriment of this group of claimants. That is one of the possible results. The court could find that reliance on the GRAS list per se was sufficient to then determine whether each particular claimant did in fact rely in good faith and to their detriment. Assuming, that the court makes this finding, the claimant will then be required to sustain his claim of damages by adequate evidence. The claim of damages will not include any lost profits, only direct and indirect costs and damages. Now, again assuming the claimant has met this burden of proof and a judgment is rendered by the U.S. Court of Claims, in the event the judgment is in excess of $100,000, the claimant will be required to come back to this body for an appropriation. Adequate safeguard indeed, it seems to me, to protect against any massive giveaways of huge sums to private interests.

The salient and interesting question

however, is that this bill is the only avenue of redress open to these claimants and failing to allow them access to the Court of Claims forecloses them entirely and forever. I am persuaded by the equities that this foreclosure would be unfair. Our support of this bill provides a forum of these claimants to present their case. It provides a forum where the merits of the claims can be determined.

We are after all, not a court of law nor are we well equipped to carefully and at some length take testimony, and examine into the legal and factual bases for these claims. It seems to me that one of our responsibilities as legislators is to represent the interests of our constituents in the matter of redress against our Government. This could range from the interest of one person failing to get their social security check. An individual's complaint of discrimination in hiring by the Government. A claim of damages for negligence or, as in this case—a claim of good faith reliance on confirmed official listing of cyclamates as generally recognized as safe for use in food.

In short, I believe that this group of claimants is at least entitled to their day in court.

The claimants I am most familiar with are members of a cooperative called the California Canners and Growers. This is a processing and marketing cooperative owned by 1,145 farmers in California and Wisconsin. These are small family farms not huge conglomerates. Each of these small growers stands to lose $7,500 to $10,000 which they have built up in a capital retaining account with the cooperative over the past 8 years. Before ordaining that loss, I propose they be given the opportunity to prove their case, if they can, before the court.

I have purposely refrained from reciting or arguing the facts which have led us to this point and decision because I believe the issue is whether these claimants should have the opportunity to present their claims, not how we would rule, decide or judge on the facts of their claims. In this instance I believe the U.S. Court of Claims is the proper forum for that debate. We will again be called on to judge, but after the hearings, on the relative merits of the claims and amounts which seem appropriate as damages.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the bill. The question before us is whether certain parties should be reimbursed, and the single point at issue is resolving this question is whether or not the Federal Government, acting through the Food and Drug Administration, was at fault in banning cyclamates.

If FDA did act in such a manner as to cause fault on the part of the Government, then indeed those parties involved should be reimbursed. If not, then the Government is not at fault and has no obligation.

The Food and Drug Administration has not, since its ruling banning cyclamates, found any scientific evidence that their original position was in error. This drug has been found to be carcinogenic; that is, it causes cancer.

There has been and there will continue to be discussion of precedents, but only one is of substance. In 1964, the Food and Drug Administration erroneously determined that spinach grown by the Mizokami brothers was contaminated. After the FDA determined that its decision was faulty, the Government reimbursed the Mizokami brothers for losses incurred as a result of the erroneous determination of contamination. Mizokami brothers versus the United States, Private Law 88–346. In the case of cyclamates, there has been no such determination of fault on the part of the Government.

Other cases cited concerning raw agricultural products under the control of the Department of Agriculture are not at issue in this situation. In each of those cases, including the cranberry, the chicken, and the milk contamination situations, there was existing law promoting the consumption of these products with provisions calling for the restoration of the farmer's purchasing power. This is not the case with the cyclamate issue.

It would be an error to penalize the American taxpayer through passage of this legislation when the Food and Drug Administration did what the law required it to do—ban any product or substance which is found to be cancer causing.

I find it somewhat ironic that this legislation asks for payment of more than $100 million—indeed the minority views filed in the report indicate the amount could run double or triple that—when the entire budget for the operation of the Food and Drug Administration in fiscal year 1972 was only a little over $118 million.

FDA has done its job in protecting the American consumer from a hazardous agent. There is no fault in this action and there is no grounds to compensate those who manufactured or used this agent and I hope this measure will be defeated.

Mr. VANIK. Mr. Chairman, I oppose H.R. 13366, a bill to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors of cyclamates as a result of the banning of the use of cyclamates. As the dissenting members of the Committee on the Judiciary noted, this legislation would signal a new and dangerous departure in governmental responsibility; it would mean that the Government was now prepared to guarantee or indemnify business against losses that occur from changes in the ruling of regulatory agencies. If this precedent should be adopted in other fields, such as environmental rulings, the cost to the Federal Government would be staggering.

Compensation is particularly unwarranted in this case because of the circumstances surrounding the banning of cyclamates. Although cyclamates were on the Food and Drug Administration's GRAS—generally regarded as safe—list, the safety of cyclamates was, as noted by the minority view, "publicly, officially, and increasingly being questioned over the two decades of its public use." In fact, despite the 1951 FDA requirement that all cyclamate products bear the warning "should be used only by persons who must restrict their intake of ordinary sweets," those in the weight-control market vigorously promoted the use of cyclamates for nondiabetics.

Thus, those in the cyclamate market experienced years of prosperity, and, because they were well aware of the potential hazards of cyclamates, they took a calculated business risk by continuing to produce cyclamates. In our free, capitalist economy, when a loss results from a business risk, the businessman, not the Government, ought to suffer the loss, and I can see no reason to make an exception in this instance.

Mr. LLOYD. Mr. Chairman, the Delaney amendment which governs food additives legislation requires the FDA to order the removal of food from public sale under the circumstances which existed in this case.

As a result, canners using cyclamates have suffered clear and serious damage which equity requires we recognize.

It is true that certain warnings were issued, but the reasonable man would be justified in concluding that with hundreds of items on the GRAS list, including cyclamates, it would be appropriate and prudent to continue to accommodate public demand for dietary foods.

In this country, we do not follow the principle that "the king can do no wrong." We render equitable treatment toward those whose proper actions have resulted in damage to them due to action by Government reasonably beyond the control of the person damaged. On balance, I conclude the canners are entitled to file claim for actual damages suffered, but not to include compensation for lost profits.

Mr. DON H. CLAUSEN. Mr. Chairman, I have already spoken briefly on the legislation before us but I want to take this time to reiterate my strong support for the bill I have coauthored to permit a Court hearing on possible indemnification for those who suffered extensive financial losses due to a sudden ban on cyclamates that was promulgated by the Department of Health, Education, and Welfare without warning.

I believe that the circumstances surrounding the ban on cyclamates clearly requires congressional attention and our favorable consideration of the pending legislation.

It is for a court to determine, through the usual course of litigation, whether or not these circumstances do, in fact, substantiate just cause for those adversely affected and I urge the Members of this body to approve the bill so a "day in court" can be granted.

The Food and Drug Administration of HEW had assured growers and distributors that cyclamates would continue to be listed as "generally recognized as safe." Then, without advance notice, FDA announced that the artificial sweetner would be banned from general consumption.

While this was a setback for the large producers and distributors, the impact was most devastating to small and medium farmers and small distributors. Those who are struggling hardest to survive faced a tremendous loss and are finding recovery from the initial setback extremely difficult and, in some cases, impossible.

The impact of the cyclamate ban has been made even more severe by other, unrelated, problems such as the fundamental problems facing family farms

and the major west coast dock strike. In an appeal for relief, one farmer in my district described his situation as "going down for the last count."

Mr. Chairman, in my judgment these growers and others involved should have the opportunity to show that they were acting in good faith when they put up the 1969 crop of canned dietetic fruits with the assurance of the FDA that they had met all existing regulatory standards.

There is no alternative or legal recourse available to those adversely affected, and if a great many of the small, independent, and family farms involved are going to survive, this legislation must be passed.

Mr. BOLAND. Mr. Chairman, I oppose this bill. Its provisions would reward a broad swath of the American food and soft drink industry—growers, manufacturers, packagers, even distributors—for their own lack of foresight, granting them what is tantamount to a blanket indemnification against losses that can be traced to the legitimate exercise of Federal regulatory authority. Advocates of this legislation point out that cyclamates, like scores of other additives routinely used in food processing, have long been cited on the Food and Drug Administration's GRAS list—that is, its list of substances "generally regarded as safe." Industry "relied" on this list, trusting it as if it were akin to Holy Writ. Therefore, the argument concludes, industry should be allowed to recover any losses it suffered when the FDA reversed its position and banned cyclamates.

I disagree, Mr. Chairman.

I disagree emphatically.

What the bill's supporters are saying, in effect, is that the mere citation of a substance on the GRAS list divests industry of its responsibility to exercise prudent business judgment and safeguard the consumer's interests. The food and soft drink industry was given ample warning about the potential toxicity of cyclamates. Time and time again, throughout the two decades of their public use, cyclamates have been challenged. In 1951, for example, the FDA itself stipulated that cyclamate products must bear a statement cautioning consumers that cyclamates "should be used only by persons who must restrict their intake of ordinary sweets." Four years later, to cite just one more example of the scores that could be arrayed here, the National Research Council of the National Academy of Sciences expressed alarm about the "physiologic activity" of cyclamates—a warning the council reiterated in 1962.

The GRAS list itself was never intended to give FDA endorsement—or even imply such endorsement, for that matter—to any chemical substance. The 1958 Food Additives Amendment, calling for rigorous testing of additives of unknown or uncertain toxicity, exempted any substance that is "generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been shown—to be safe under the conditions of its intended use." To determine precisely what constitutes such an additive, the FDA polled 900 scientists and food experts. Fewer than half of them—355—responded to the poll. Using what data it had, a "consensus" of less than the 50 percent of experts consulted, the FDA then drew up a list of substances "generally regarded as safe."

This list was simply a notice to industry—and to the public, as well—that the 600 substances were exempt from the testing demanded by the food additives amendment.

It did not award FDA sanction to any of these additives.

On the contrary, the list should have been interpreted as a warning to industry and consumer alike—a warning that special vigilance should be exercised in using any of the 600 GRAS substances since they are beyond the reach of the 1958 testing law, even though within the definition of "generally regarded as safe." In no way did this list relieve industry of its responsibility to protect the consumer's interests. Yet, Mr. Chairman, enactment of the bill now before us would be equivalent to a congressional determination that mere "reliance" on the GRAS list invests industry with the right to press for recovery of its losses in the U.S. Court of Claims. Such recovery would cost the Federal Government an estimated $100 million to $120 million—perhaps twice as much, even three times as much, once every facet of the food and soft drink industry has its day in court.

The minority views in the Judiciary Committee's report on this bill point out that:

> In our system of justice, losses lie where they fall, unless there is culpability on the part of someone else. Certainly no culpability can be charged to the FDA in this case.

Passage of this bill, Mr. Chairman, would open up a veritable Pandora's box—rewarding industry for its poor business judgment in failing to anticipate FDA restrictions on cyclamates, encouraging industry to neglect its responsibilities in private research and self-regulation, establishing a precedent of indemnifying industry against the wholly proper actions of Federal regulatory agencies.

Again, Mr. Chairman, I urge the defeat of this bill.

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 the Court of Claims shall have jurisdiction to render judgment upon any claim for losses sustained by domestic growers, manufacturers, packers, or distributors as a result of the actions taken by the United States under the Federal Food, Drug, and Cosmetic Act on October 18, 1969, and thereafter relating to cyclamic acid and its salts upon a finding that the claimant relied in good faith and to his detriment on the safety of cyclamic acid and its salts as a food additive by virtue of its inclusion and continuance on the list of substances that are generally recognized as safe for their intended use (21 CFR 121.101) promulgated in accordance with sections 201(s), 409, and 701(a) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 321 (s), 348, 371 (a); 52 Stat. 1055; 72 Stat. 1784, 1785, as amended). Such court shall determine the amount of loss resulting from such claimants good faith reliance, including direct and indirect costs and damages, but not including lost profits resulting, to the grower, manufacturer, packer, or distributor from said actions by the United States and render judgment in favor of such claimant and against the United States in the amount determined. Payment of such judgments shall be in the same manner as in the case of claims over which such court otherwise has jurisdiction as provided by law. Suits under this Act must be instituted within one year after enactment hereof.

Mr. WALDIE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

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

There was no objection.

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

Mr. Chairman, although we have heard a great deal about going into court, and I am not a lawyer, the whole thrust of this bill seems to be an instruction to the court of claims to pay claimants regardless, perhaps, of the validity of the claims.

We read, for instance, beginning on page 2, line 15:

> Such court shall determine the amount of loss resulting from such claimants good faith reliance, including direct and indirect costs and damages, but not including lost profits resulting, to the grower, manufacturer, packer, or distributor from said actions by the United States and render judgment in favor of such claimant—

That is mandatory. The bill further states:

> and render judgment in favor of such claimant and against the United States in the amount determined.

I emphasize again that I am not an attorney, but this seems to me to be a claimant's bill, mandating that the claims be paid.

I do not read in this bill any provision for the real adjudication of a claim.

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

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

Mr. WALDIE. The language to which the gentleman refers is precisely the language of any claim bill. When it says "to render judgment" it does not say to render judgment in favor of the claimant. It says to render judgment, which could be very readily against the claimant.

Mr. GROSS. It states: "render judgment in favor of such claimant."

Mr. WALDIE. That is in the event the claimant is able to satisfy the good faith reliance on the GRAS List.

Mr. GROSS. It does not say that.

Mr. WALDIE. That is precisely why the committee amendment requiring good faith reliance on the GRAS List was included.

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

Mr. GROSS. I yield to the distinguished chairman of the Judiciary Committee, the gentleman from New York.

Mr. CELLER. I believe the gentleman from Iowa is absolutely correct. We act as a court here and say that if a man has purchased cyclamates he then automatically has a claim against the Government.

He does not have to prove anything more than that as far as his claim is

concerned. Then he presents his bills stating as to how much he paid for it, for the warehousing and advertising costs, and then the Court of Claims passes on those amounts. However, there is no adversary who challenges those statements. I said that before, and I was countermanded by the gentleman from California who said that the U.S. Government is a party. Well, the U.S. Government may be a party, but there is nothing in the bill that seems to indicate they can challenge either the amount or the claim.

Mr. GROSS. That is right.

Mr. CELLER. We established the claim right here. We, in effect, issue a finding that if he purchased cyclamates and if he has them, then he automatically has a claim against the Government.

Mr. GROSS. I thank the gentleman.

Mr. DRINAN. Will the gentleman yield?

Mr. GROSS. Let me first yield to the gentleman from Massachusetts.

Mr. DRINAN. I think you are precisely right. The very title of the bill says that the bill is designed to provide for the payment of losses incurred by these four categories; namely, growers, manufacturers, packers, and distributors. So it is precisely as the gentleman from Iowa (Mr. GROSS) has stated. It is a giveaway. They do not have to prove anything that good faith, and no one would be in bad faith. Anyone, as the distinguished Chairman of the Committee said, who has any claim whatsoever who proved he was damaged in any way can come in, and he will, in fact, recover. This is a mandate to pay him.

Mr. GUBSER. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. GUBSER. I will remind the gentleman from Massachusetts that the title also mentions good faith reliance and also at the top of page 2 it says——

Mr. GROSS. I am not an attorney. What is good faith reliance?

Mr. GUBSER. I think I can explain it in just a moment, although I am not an attorney either. At the top of page 2 it says that "the Court of Claims shall have jurisdiction to render judgment," and I delete the rest," upon a finding that the claimant relied in good faith and to his detriment." In other words, the Court of Claims makes a finding on which they relied. Is that not correct?

Mr. GROSS. Let me get to another point where I find trouble with this bill. It says that "such court shall determine the amount of loss resulting from such claimant's good faith reliance" and indirect costs.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for 2 additional minutes.)

Mr. GROSS. Now let me ask the gentleman before my additional time expires, what do you mean by "indirect costs?"

Mr. GUBSER. Well, if the gentleman will yield, I would like to refer that to the gentleman from California (Mr. WALDIE). I think he can give you a more succinct answer than I can, but before doing so, will the gentleman let me answer his last question, and I will get more time for him if necessary. First of all, the Court must make a finding that there was good faith reliance, and the bill does say the amount of damages shall be determined, but it does not say pay them. He has to come back to the Committee on Appropriations if it is in excess of $100,000.

Mr. GROSS. We are dealing with the authorizing bill here and now. The appropriations is separate and comes later. I have heard that story before with all due respect to the gentleman.

Mr. DRINAN. Will the gentleman yield?

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

Mr. DRINAN. I would like to ask the gentleman from California, if I may, is there any other possible reason why they could continue to use cyclamates except that it is on the GRAS list? All of the individuals and agencies said this is dangerous and should not be continued. The only thing on which they could have relied in order to make the profits that they want to recover now is the GRAS list. It seems to me they do not have to prove good faith, because there is nothing else on which they could have relied in order to make the profits that they wanted to make.

Mr. WALDIE. Will the gentleman yield?

Mr. GROSS. Yes, I yield to the gentleman.

Mr. WALDIE. You asked a question about the direct and indirect costs.

Mr. GROSS. What I am specifically referring to is "indirect costs."

Mr. WALDIE. I am about to respond to that. The committee testimony and the transcript of the hearing reveals that the direct and indirect costs are costs that the Court of Claims uses in the determination of damage claims before the Court of Claims.

Mr. Gray, of the Department of Justice, in describing the kind of damages that would be included under such a category of indirect costs, said that the labels and containers——

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

(By unanimous consent, Mr. GROSS was allowed to proceed for 1 additional minute.)

Mr. WALDIE. Mr. Chairman, if the gentleman will permit me to continue, he said that the labels and containers that are no longer in use because "cyclamates" are included in the label and therefore had to be destroyed, that picking up the inventory from the markets to which it had been delivered are costs attributable in this particular case to indirect costs, and that digging the holes in which the inventory of this cooperative, for example, had to be buried, was an indirect cost that was directly attributable.

Mr. GROSS. Would lobbying or the hiring of a public relations firm be an indirect cost?

Mr. WALDIE. It would not.

Mr. GROSS. In order to lobby Congress for support of this legislation, would that be an "indirect cost"?

Mr. WALDIE. It would not.

Mr. GROSS. Would advertising be so considered?

Mr. WALDIE. Advertising, according to Mr. Gray's description in the committee transcript, if a brochure had been published that had not been able to be distributed, using cyclamates, and was on hand, they could get the cost of that brochure, but not advertising that they had done prior to the banning of cyclamates.

It does not involve profits or anything else.

And in further response to the question asked by the gentleman from Iowa (Mr. GROSS) the amendment to which I have referred——

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

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

Mr. Chairman, the amendment to which I have made reference when I was attempting to explain what I construed to be the gentleman's misunderstanding of the language here, was added to the bill by the committee. Prior to the committee amendment, the bill did precisely what the gentleman has described it as doing. As a matter of fact, that is why the title of the bill says "To provide for the payment of losses incurred." When I made my remarks on the floor you will recall that I said the bill was improperly titled, and that it should have been titled "To provide for the submission of claims to the Court of Claims for the payment of losses." But that only became the case when the committee responded to the opposition on the bill essentially put forth by the Nader group, they said just as these gentleman are now saying, and in order to avoid that it be so construed, we said we are not directing the Court of Claims to make judgments paying for losses unless those losses were incurred as a result of a claimant being wronged by the Government by acting in good faith on the GRAS list for which there was no statutory requirement on the part of the Government to compile.

The language that the gentleman read was the language that was included to accomplish precisely that which you believe it did not accomplish. At least, those on the committee, the majority by a long, long way, 17 to 6, I believe, believes that that was accomplished. And it was our intention, if there is any question in the record of the hearings or in the legislative record, it is our intention that any claimant who comes before the Court of Claims who says, "I relied on the GRAS list," has to have established whether he or they or it had independent knowledge that cyclamates were in fact damaging in terms of a consumer item, and if they did they should not be able to recover.

It certainly was my intention in moving in this particular matter, and it was the intention of the majority of the committee. That is what I said when I was discussing it in the well of the House, that the bodies of claimants, the categories of the claims will vary in terms of their ability to prove, in my view, good faith reliance when they come before the Court of Claims. I think that some will not, and some will.

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

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

Mr. DANIELSON. Mr. Chairman, I hold in my hand a soft drink bottle that I just picked up in the cloakroom. At the bottom of the bottle, it says among other things:

Contains * * * calcium cyclamate and non-nutritive artificial sweeteners which should be used only by persons who must restrict their intake of ordinary sweets, etc.

Is it not true that this soda pop company, which has continued to use this labeling for 3 years past the date of the ban, would have its recovery, if any, diminished by the fact that they continued to use these bottles for some 3 years and, therefore, suffered a proportionately lesser loss?

Mr. WALDIE. That is my understanding of the intention of the committee, and it is my personal understanding.

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

Mr. WALDIE. I yield to the gentleman.

Mr. DENNIS. The gentleman will agree, will he not that once a claimant comes in under this bill and asserts that he relied in good faith, he has done all that he has to do at that point and the burden then falls on the Government to prove affirmatively that he did not act in good faith; is that not correct?

Mr. WALDIE. Essentially, that is correct. It is just the same as when a claimant comes in in a case involving a negotiable instrument and claims he purchased it in good faith.

Mr. DENNIS. That is true, of course, in the case of negotiable instruments. But in the ordinary case in proving a claim in a lawsuit, of course, the burden is the other way round. The gentleman would agree to that; would he not?

Mr. WALDIE. I will agree. In any case I know of, when any claimant comes in and makes his case, then once he makes his case, the burden shifts to those opposing it. In this instance, the claimant comes in and says—this is my case and I suffered these losses and I relied on the GRAS list. Then the burden shifts to the Government to say that they should not have relied on the GRAS list when you people have a laboratory employing 4,000 people and who are spending 365 days a year examining cyclamates and you have no business relying on an incompetent Government.

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

Mr. WALDIE. I yield to the gentleman.

Mr. DENNIS. I do not think we are really in discord; in this particular case all you have to do is to assert your claim and say I relied—then the entire burden of proving the contrary shifts to the Government, which I say is an unusual sort of situation.

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

Mr. Chairman, I rise to ask the gentleman from California a question.

Suppose I buy this cyclamate after the ban was placed on cyclamates—can I still recover in the Court of Claims?

Mr. WALDIE. You could not. You could not show that you relied in good faith on the GRAS list.

Mr. CELLER. So far as I can see—it must be on page 2, line 1—let us examine that a minute.

As I understand it, the ban was issued in 1970 and for 6 months prior thereto there were all kinds of modified bans with reference to labeling—that the cyclamates, for example, within that 6-month period could be used and sold as a drug.

Now suppose I bought a vast quantity of cyclamates within that 6-month period? Would I still have a right to make a claim before the Court of Claims?

Mr. WALDIE. If you bought cyclamates after the ban, you deserve a lot of help. I agree with you there—if you were that foolish to buy cyclamates after it was banned.

Mr. CELLER. I do not see that language—where is that language to be found?

Mr. WALDIE. The fact of the matter is—it was my intent, and I speak only for myself—but I speak also for what I assume to be the intent of the committee—the situation you presume would clearly not permit even the assertion of a claim. If you do not read that in the language, then let us be clear that that at least is the legislative history which I understand to be the case.

Mr. CELLER. I think the language is extremely unclear and it could be difficult to deny a claim if the purchase were within that 6-month period that I stated to you and it could be very difficult to establish bad faith by the Government to counter the alleged good faith on the part of the claimant.

I do not know how you can prove bad faith. You have to prove something that is inside the mind of the man who is the claimant. How in thounder can you prove bad faith? That is the only way I think you can counteract the so-called good faith language that is in the bill.

For that and other reasons, I think the bill is quite faultily worded, and on that ground alone there should be a "no" vote on this bill.

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

Mr. CELLER. I yield to the gentleman.

Mr. DONOHUE. I would like to make this point clear—that we are talking about these people who use cyclamates having a claim against the Government.

Do I understand from the gentleman from California (Mr. WALDIE) that the Government goes into court presumed to be wrong?

Mr. WALDIE. Mr. Chairman, I do not presume the Government to be wrong; I think the Government was wrong in two instances. In the first instance, they were wrong in assuming a duty that was not their statutory responsibility by even publishing the GRAS list. The second time they were wrong was in April of 1969 when they had knowledge that ingestion of cyclamates should be limited and they did not take that substance off the GRAS list. So I do not presume they were wrong; I am stating they were wrong, very wrong.

Mr. DONOHUE. Let me ask the gentleman this question: In the event we pass this bill, do we not establish that the Government was wrong in their action?

Mr. WALDIE. No, Mr. Chairman; we do not. If I were going to represent a claimant before the Court of Claims, I would seek to so argue, but we in Congress are not. We in Congress say that given these circumstances, an injustice has occurred. Whether it meant that it was intentional or negligent in terms of its inception, an injustice has occurred causing a change in position and damage to Americans, and Americans ought to be able to sue the Government.

Mr. DONOHUE. As the chairman of the Judiciary Committee points out, this will not be an adversary proceeding in the sense that the claimant goes in and be entitled to damages unless the burden of proof shifts to the Government, and the Government will then have to show that he acted in the use of these cyclamates in bad faith.

Mr. WALDIE. That is exactly right. The Government will have to show that he had intervening knowledge that should not have caused him to rely on a list that was defective.

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

Mr. Chairman, in order to further clarify the record, I would like to ask the gentleman from California a few more questions.

As I understand it, it is your position that if in fact, let us say, a manufacturer of cyclamates knew that they would cause cancer in mice, the fact that the FDA had not yet removed this substance from the GRAS list would not exculpate him and allow him to make a claim under this bill; is that correct?

Mr. WALDIE. He should not be able to recover.

Mr. SEIBERLING. All right. If, in fact, he knew that the substance could produce cancer in animals, and nevertheless continued to sell it to users, would the latter not have a cause of action against him, or might they not have a cause of action against him under State law?

Mr. WALDIE. In my view not might; they would if in fact he knew. If he suspected, there might be a different resolution of the question.

Mr. SEIBERLING. Then should not the proper remedy in this case be the provision of a cause of action on behalf of innocent users, not against the Government of the United States, but against the manufacturers who knowingly continued to sell this product after they knew it was in violation of Government regulations?

Mr. WALDIE. The manufacturers did not knowingly, to my knowledge, continue to sell, once they knew it was carcinogenic. The question is, Was there sufficient information available at that time to cause their reliance on the Government as an authority as to what substances are safe and legitimate, and that does not require reliance that would constitute knowledge on the part of the manufacturer that there were carcinogenic substances available.

Mr. GUBSER. Will the gentleman yield?

Mr. SEIBERLING. I will yield to the gentleman in 1 minute.

Then a manufacturer who could not be sued by such customers after the partic-

ular dates in question here will himself have a claim under this bill; is that not so?

Mr. WALDIE. Not in my view, because, you see, you predicated your first question to me upon the phrase that he had certain knowledge that it was carcinogenic and continued to market it, and I responded:

Yes, he could sue, but if he did not have certain knowledge that it was carcinogenic, but under all the circumstances available should have been suspicious of it, then in my view he could not recover.

If I were on the Court of Claims, I would not permit it, and if I were a Government attorney arguing it, I would be very, very careful not to permit a manufacturer of cyclamates to present a claim of that type to the Court of Claims.

I do not think they have much standing, personally.

Mr. SEIBERLING. Is it your position that the users who purchased from the manufacturers have no other cause of action unless this bill is enacted?

Mr. WALDIE. That is not my position. It is my position that I have accepted the judgment of those people more knowledgeable in this field than I. All of them have told me, and that was one of the first questions that I asked, why do you not go after the manufacturers of cyclamates, he ought to have known this was a dangerous substance? The answer is that was first thought of as to where they should go, but the answer is now no recovery from that source could be had.

Mr. SEIBERLING. Then I find it very difficult to believe the manufacturers of cyclamates would not themselves have a claim under this bill. They would have a claim.

Mr. WALDIE. They would have a claim but not the same claim and probably, not a provable claim.

Mr. SEIBERLING. Then it seems to me that the gentleman fom Iowa, though not a lawyer, is entirely correct in his interpretation. I am a lawyer, and I concur with him.

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

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

Mr. GUBSER. I am not seeking to interject myself in the colloquy between the two gentlemen, but I did want to bring out facts about the principal manufacturer of cyclamates Abbott Laboratories, Inc. It is significant that it was their test and their experiment, which they immediately reported to the Food and Drug Administration, which actually caused the withdrawal of cyclamates from the market.

Mr. SEIBERLING. And yet did they not continue to sell cyclamates thereafter?

Mr. GUBSER. No, they were immediately withdrawn. It was their experiment which caused the withdrawal, and I think they certainly acted in extreme good faith in conveying that information to the FDA.

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

(By unanimous consent Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

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

Mr. SEIBERLING. I yield to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding.

I would like to say I concur with the gentleman from Ohio. If the gentleman from California is right that the state of the knowledge was such—that it was so doubtful—that there is no liability which a purchaser can assert against the manufacturer, then it seems to me to follow, almost as the night the day, that every manufacturer is home free under this bill; because we cannot prove he did not act in good faith, just as we cannot prove a liability case against him. I think the gentleman is correct.

Mr. SEIBERLING. I must confess that is the way it comes out for me.

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

Mr. Chairman, I had seriously hoped that after the supplemental appropriations bill and the agricultural appropriations bill to pay beekeepers for dead bees, I would not have to rise on this floor again to combat subsidies to private business. But apparently more and more drones are being attracted to the honeycomb of Government subsidies. It now appears that soft drink manufacturers believe that because of the ban on cyclamates, the FDA stole their fizz.

I have some questions to address to those who believe that taxpayers should support companies who claim losses suffered under the FDA ban.

First of all, many major soda industries were prepared for the ban before October 1969. Some companies had new diet products ready for marketing before the cyclamate ban. Some companies even experienced an increase in profits immediately after the ban.

For example, the net income of Coca-Cola Bottling Co., of New York, Inc., jumped from $5.2 to $5.5 million between 1969 and 1970. My first question is: Why did other companies ignore warnings dating back over 15 years concerning the uncertain safety of cyclamate additives?

Mr. Chairman, in 1951, the FDA required that cyclamate products bear the following label—"Should be used only by persons who must restrict their intake of ordinary sweets." Similar warnings were repeated in 1954, 1955, 1956, 1962, and modified in 1968, by both the National Academy of Sciences and the FDA. Some companies simply refused to adjust their course.

Mr. Chairman, please examine the financial records of just one company which seeks Federal funds for its folly. Chesebrough-Ponds, not a bottler, but a pharmaceutical firm, used cyclamate products to sweeten its cough syrup.

It claimed losses of $88,000 because of the cyclamate ban. But in 1971, the net income for Chesebrough-Ponds totaled $23,438,000. I shudder to think of a major pharmaceutical firm, preparing drugs for so many patients, ignoring the uncertainties of cyclamates while steering so persistent a course to profit.

Mr. Chairman, why did only three business executives testify as to their companies' losses before the House Judiciary Committee in September 1971? Did other executives prefer to let trade association members represent them so they could avoid the spotlight? Or were they less confident about making such irregular claims before that distinguished committee? The evidence indicates that even executives of the same company have disagreed as to the extent of their supposed losses resulting from the cyclamate ban.

The saying goes, "Dollars don't grow on trees." It appears that the supporters of this bill believe the opposite.

The House report on the bill placed its cost between $100 million and $120 million. Why should the taxpayers pay this burden to absolve another's mistakes? When TV cigarette advertising was banned, did the Government provide subsidies to advertising agencies?

Are we going to dole out tax dollars to private enterprise every time legitimate Government action, taken in the interest of the public, results in a loss of profit?

Mr. Chairman, the distinguished gentleman from Iowa (Mr. GROSS) has often warned us of the camel's nose under the tent. I have attempted to put the spotlight on that nose myself on several occasions. Because the warnings were too often ignored, the camel has grown braver. His hump is now in view.

If we are ever to expect the camel to go away, we are going to have to deny his access to the public trough. Turn off the spigot and he will have to go elsewhere to satisfy his thirst. Today we have that opportunity. I urge my colleagues to join me in voting against this bill—this latest attempt to raid the taxpayer's pocketbook.

I know that, despite my protests, we have subsidized private business in the past. I am not going to ask you to cry over spilt milk. But I do exhort you—"let not the taxpayer cry over spilt cola."

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

Mr. Chairman and my colleagues, I was a cosponsor of this legislation and became interested in it because I was convinced of the equities of the small growers who are members of cooperatives, who had no possible way of having advance notice that their entire year's pack at the peak of inventory would suddenly become virtually valueless.

However, more recently I have learned of a possible claimant. I believe the colloquy and conversation which took place between the gentleman from Iowa and the gentleman from California point this out. Larger corporations may have very questionable claims for any compensation under this act, but it does happen there is a possible claimant, a large corporation in which I am a stockholder, and therefore I will be required by the rules of the House to vote "present" on this bill.

Mr. CONABLE. Mr. Chairman, I also am a sponsor of this bill, and I would usually support it under the facts as I understand them. In the course of this debate I have learned of possible claims by two companies of which I or members of my family own stock. For this reason I must vote "present," rather than give rise to any possible implication of personal benefit from the exercise of my vote.

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

I shall take only 1 minute. I take this time for the purpose of correcting an implication which I believe was left in the RECORD by the gentleman from Massachusetts (Mr. CONTE).

If I interpret his remarks correctly, his implication was that bottlers—I believe he mentioned Coca-Cola—were ready with an alternative to cyclamate-sweetened drinks. I believe a few facts ought to be pointed out.

The Food and Drug Administration historically, for a long period of time, had a prohibition against the mixing of organic and inorganic sweeteners. Under that ruling it was not possible to combine saccarin and sugar. If I remember correctly, the cyclamate ban came on a Friday night. It was not possible to substitute saccharin and sugar immediately. But on Monday morning the bottling companies did go to the Food and Drug Administration, told them of the problem, and asked if they could have a temporary permit, which later became permanent, to use saccharin and sugar.

All kinds of nonnutritive sweeteners had been under experimentation for many, many years, just as all types of innovations in the food industry are always under experimentation. So this was not something ready. It was something which was not even legal the night of the cyclamate ban, but it was made legal 2 or 3 days later.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair (Mr. ULLMAN), 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. 13366, to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed or packaging, labeling, and other materials had been prepared in good faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes, pursuant to House Resolution 1024, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

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.

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

The yeas and nays were ordered.

The question was taken; and there were—yeas 177, nays 170, answered "present" 4, not voting 81, as follows:

[Roll No. 279]

YEAS—177

Abbitt	Gibbons	Mollohan
Abernethy	Goldwater	Moss
Abourezk	Gonzalez	Murphy, Ill.
Anderson, Ill.	Goodling	Natcher
Andrews, Ala.	Gray	Nelsen
Arends	Green, Oreg.	O'Konski
Aspin	Hammer-schmidt	Passman
Aspinall	Hanna	Pelly
Belcher	Hansen, Idaho	Poage
Bergland	Hansen, Wash.	Price, Tex.
Betts	Harsha	Purcell
Blatnik	Hastings	Quie
Bow	Heckler, Mass.	Railsback
Brademas	Hicks, Mass.	Rhodes
Brasco	Hicks, Wash.	Roberts
Bray	Hillis	Robinson, Va.
Brinkley	Holifield	Runnels
Brown, Mich.	Horton	Ruppe
Broyhill, Va.	Hosmer	Schmitz
Burleson, Tex.	Howard	Schneebeli
Burton	Hull	Sebelius
Byrnes, Wis.	Hungate	Shoup
Cabell	Hunt	Sikes
Carlson	Jacobs	Sisk
Cederberg	Johnson, Calif.	Slack
Clancy	Johnson, Pa.	Smith, Calif.
Clausen, Don H.	Jonas	Smith, Iowa
Clawson, Del	Jones, Ala.	Smith, N.Y.
Collins, Ill.	Jones, N.C.	Staggers
Colmer	Jones, Tenn.	Steed
Corman	Karth	Steiger, Ariz.
Crane	Kastenmeier	Steiger, Wis.
Daniel, Va.	Kazen	Stephens
Daniels, N.J.	Keating	Stratton
Danielson	Kee	Stubblefield
Davis, S.C.	Keith	Taylor
Davis, Wis.	King	Teague, Calif.
de la Garza	Kluczynski	Teague, Tex.
Dellenback	Kuykendall	Thompson, Ga.
Denholm	Kyl	Thomson, Wis.
Dent	Leggett	Ullman
Derwinski	Lloyd	Van Deerlin
Dickinson	McClory	Vander Jagt
Dorn	McCollister	Veysey
Downing	McCormack	Vigorito
Duncan	McCulloch	Waggonner
Eckhardt	McDade	Waldie
Edwards, Calif.	McFall	Wampler
Eshleman	McMillan	Ware
Fish	Mahon	White
Flood	Martin	Whitehurst
Flowers	Mathias, Calif.	Wiggins
Foley	Mayne	Williams
Ford, Gerald R.	Meeds	Wilson, Bob
Forsythe	Michel	Wright
Frey	Miller, Calif.	Wyatt
Fuqua	Mills, Md.	Young, Tex.
Garmatz	Minshall	Zablocki
Giaimo	Mizell	Zion

NAYS—170

Abzug	Chappell	Gaydos
Adams	Clark	Grasso
Andrews, N. Dak.	Collins, Tex.	Griffin
Annunzio	Conover	Gross
Archer	Conte	Grover
Ashbrook	Coughlin	Gude
Ashley	Culver	Haley
Baker	Curlin	Hall
Baring	Delaney	Hamilton
Barrett	Dellums	Harvey
Begich	Dennis	Hathaway
Bell	Diggs	Hawkins
Bennett	Dingell	Hechler, W. Va.
Bevill	Donohue	Helstoski
Biester	Dow	Henderson
Bingham	Drinan	Hogan
Boland	du Pont	Ichord
Brooks	Dwyer	Jarman
Brotzman	Edwards, Ala.	Kemp
Brown, Ohio	Eilberg	Koch
Broyhill, N.C.	Esch	Kyros
Buchanan	Evans, Colo.	Latta
Burke, Fla.	Fascell	Lennon
Burke, Mass.	Findley	Lent
Burlison, Mo.	Fisher	Long, Md.
Byron	Ford, William D.	Lujan
Caffery	Fountain	Macdonald, Mass.
Carey, N.Y.	Fraser	Madden
Carney	Frelinghuysen	Mallary
Carter	Frenzel	Mann
Celler	Galifianakis	Mathis, Ga.
Mazzoli	Reid	Springer
Miller, Ohio	Reuss	Stanton, J. William
Minish	Riegle	Stanton, James V.
Mitchell	Robison, N.Y.	Steele
Montgomery	Rodino	Stokes
Morgan	Roe	Sullivan
Mosher	Rogers	Symington
Murphy, N.Y.	Roncalio	Thompson, N.J.
Myers	Rooney, Pa.	Thone
Nichols	Roush	Tiernan
Nix	Rousselot	Udall
O'Hara	Roy	Vanik
O'Neill	Ruth	Whalen
Patman	St Germain	Widnall
Patten	Sarbanes	Wilson, Charles H.
Perkins	Satterfield	Winn
Peyser	Saylor	Wydler
Pickle	Scherle	Wylie
Pike	Scheuer	Wyman
Podell	Schwengel	Yates
Poff	Scott	Yatron
Preyer, N.C.	Seiberling	Young, Fla.
Price, Ill.	Shipley	Zwach
Pryor, Ark.	Shriver	
Randall	Skubitz	
Rangel	Snyder	
Rees	Spence	

ANSWERED "PRESENT"—4

Conable	Mailliard	Pirnie
Gubser		

NOT VOTING—81

Addabbo	Erlenborn	Matsunaga
Alexander	Evins, Tenn.	Melcher
Anderson, Calif.	Flynt	Metcalfe
Anderson, Tenn.	Fulton	Mikva
Badillo	Gallagher	Mills, Ark.
Biaggi	Gettys	Mink
Blackburn	Green, Pa.	Monagan
Blanton	Griffiths	Moorhead
Boggs	Hagan	Nedzi
Bolling	Halpern	Obey
Broomfield	Hanley	Pepper
Byrne, Pa.	Harrington	Pettis
Camp	Hays	Powell
Casey, Tex.	Hébert	Pucinski
Chamberlain	Heinz	Quillen
Chisholm	Hutchinson	Rarick
Clay	Landgrebe	Rooney, N.Y.
Cleveland	Landrum	Rosenthal
Collier	Link	Rostenkowski
Conyers	Long, La.	Roybal
Cotter	McCloskey	Ryan
Davis, Ga.	McClure	Sandman
Devine	McDonald, Mich.	Stuckey
Dowdy	McEwen	Talcott
Dulski	McKay	Terry
Edmondson	McKevitt	Whalley
	McKinney	Whitten
		Wolff

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Boggs for, with Mr. Rooney of New York against.

Mr. Alexander for, with Mr. Addabbo against.

Mr. Matsunaga for, with Mr. Casey of Texas against.

Mrs. Mink for, with Mr. Wolff against.

Mr. Pepper for, with Mr. Mikva against.

Mr. Fulton for, with Mr. Monagan against.

Mr. Dowdy for, with Mr. Dulski against.

Mr. Hébert for, with Mr. Hanley against.

Mr. Edmondson for, with Mr. Rostenkowski against.

Mr. Stuckey for, with Mr. Rosenthal against.

Mr. Pettis for, with Mr. McKevitt against.

Mr. Chamberlain for, with Mr. Heinz against.

Mr. Erlenborn for, with Mr. Ryan against.

Mr. Devine for, with Mr. Biaggi against.

Mr. McClure for, with Mr. McKinney against.

Mr. Blackburn for, with Mr. Green of Pennsylvania against.

Until further notice:

Mr. Hays with Mr. McDonald of Michigan.

Mr. Badillo with Mr. McCloskey.

Mr. Harrington with Mr. Hutchinson.

Mr. Roybal with Mr. Halpern.

Mr. Pucinski with Mr. Broomfield.

Mr. Moorhead with Mr. Talcott.

Mr. Link with Mr. Camp.
Mr. Anderson of Tennessee with Mr. Terry.
Mr. Blanton with Mr. Cleveland.
Mr. Byrne of Pennsylvania with Mr. Sandman.
Mrs. Chisholm with Mr. Nedzi.
Mr. Evins of Tennessee with Mr. Quillen.
Mr. Gallagher with Mr. Clay.
Mr. Cotter with Mr. Conyers.
Mr. Anderson of California with Mr. Metcalfe.
Mr. Landrum with Mr. Collier.
Mr. Long of Louisiana with Mr. Whalley.
Mr. Davis of Georgia with Mr. Landgrebe.
Mr. Gettys with Mr. Powell.
Mr. Flynt with Mr. Rarick.
Mrs. Griffiths with Mr. Hagan.
Mr. McKay with Mr. Melcher.
Mr. Whitten with Mr. Mills of Arkansas.

Messrs. HARSHA, LLOYD, DICKINSON, MOLLOHAN, STAGGERS, and BRADEMAS changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to provide for the payment of losses incurred by domestic growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates after extensive inventories containing such substances had been prepared or packed or packaging, labeling, and other materials had been prepared in good faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALDIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 13366.

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

There was no objection.

NATIONAL PROGRAM FOR THE INSPECTION OF DAMS

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15951) to authorize the Secretary of the Army to undertake a national program of inspection of dams, and ask that the bill be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the unanimous-consent request

Mr. JONES of Alabama. To take up the bill H.R. 15951, which is the bill to give the Corps of Engineers the right to make inspections on non-Federal reservoir dams.

Mr. GROSS. Is this the original consideration of the bill?

Mr. JONES of Alabama. Yes, it is.

Mr. GROSS. Was this bill programed for today?

Mr. JONES of Alabama. No. I consulted with the gentleman from Ohio (Mr. HARSHA) and thought the matter should be brought up for immediate action. It is a noncontroversial matter and we do not anticipate any difficulty.

We are seeking that it be considered in the House as in Committee of the Whole so that there will be a full and complete discussion of the entire subject matter contained in the bill.

Mr. GROSS. What is the nature of the bill?

Mr. JONES of Alabama. The nature of the bill is to provide for the inspection of dams and reservoirs to see that we do not have a recurrence of what took place in West Virginia, South Dakota and other areas where there may be frail dams that may endanger the lives and property of the people in the affected areas.

Mr. GROSS. Does the gentleman anticipate that it will take a period of time to dispose of the bill this evening?

Mr. JONES of Alabama. No, I do not think we will use over 5 or 10 minutes at the most.

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

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

There was no objection.

The Clerk read the bill as follows:

H.R. 15951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "dam" as used in this Act means any artificial barrier, including appurtenant works, which impounds or diverts water, and which (1) is twenty-five feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation or (2) has an impounding capacity at maximum water storage elevation of fifty acre-feet or more. This Act does not apply to any such barrier which is not in excess of six feet in height, regardless of storage capacity or which has a storage capacity at maximum water storage elevation not in excess of fifteen acre-feet, regardless of height.

SEC. 2. As soon as practicable, the Secretary of the Army, acting through the Chief of Engineers, shall carry out a national program of inspection of dams for the purpose of protecting human life and property. All dams in the United States shall be inspected by the Secretary except (1) dams under the jurisdiction of the Bureau of Reclamation, the Tennessee Valley Authority, or the International Boundary and Water Commission, (2) dams which have been constructed pursuant to licenses issued under the authority of the Federal Power Act, (3) dams which have been inspected within the twelve-month period immediately prior to the enactment of this Act by a State agency and which the Governor of such State requests be excluded from inspection, and (4) dams which the Secretary of the Army determines do not pose any threat to human life or property. The Secretary may inspect dams which have been licensed under the Federal Power Act upon request of the Federal Power Commission and dams under the jurisdiction of the International Boundary and Water Commission upon request of such Commission.

SEC. 3. As soon as practicable after inspection of a dam, the Secretary shall notify the Governor of the State in which such dam is located the results of such investigation. The Secretary shall immediately notify the Governor of any hazardous conditions found during an inspection. The Secretary shall provide advice to the Governor, upon request, relating to timely remedial measures necessary to mitigate or obviate any hazardous conditions found during an inspection.

SEC. 4. For the purpose of determining whether a dam (including the waters impounded by such dam) constitutes a danger to human life or property, the Secretary shall take into consideration the possibility that the dam might be endangered by overtopping, seepage, settlement, erosion, sediment, cracking, earth movement, earthquakes, failure of bulkheads, flashboard, gates on conduits, or other conditions which exist or which might occur in any area in the vicinity of the dam.

SEC. 5. The Secretary shall report to the Congress on or before July 1, 1974, on his activities under the Act, which report shall include, but not be limited to—

(1) an inventory of all dams located in the United States;

(2) a review of each inspection made, the recommendations furnished to the Governor of the State in which such dam is located and information as to the implementation of such recommendations;

(3) recommendations for a comprehensive national program for the inspection, and regulation for safety purpose of dams of the Nation, and the respective responsibilities which should be assumed by Federal, State, and local governments and by public and private interests.

SEC. 6. Nothing contained in this Act and no action or failure to act under this Act shall be construed (1) to create any liability in the United States or its officers or employees for the recovery of damages caused by such action or failure to act; or (2) to relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam.

Mr. JONES of Alabama. Mr. Speaker, it is estimated that there are over 28,000 non-Federal dams in the Nation. No comprehensive assessment of the actual number, or of their condition, has been undertaken. The State programs for the licensing and inspection of non-Federal dams vary greatly in scope and effectiveness. The failure of a dam or other water impounding structure can have disastrous results, as evidenced by the recent tragedies in Rapid City, S. Dak., and Buffalo Creek, W. Va. In addition, tropical storm Agnes serves as a frightening reminder that flood conditions far greater than anticipated can occur over wide areas of the country, posing a threat to a large number of dams, the failure of which would add immensely to the damage otherwise caused by the flooding.

H.R. 15951, as reported, authorizes the Secretary of the Army, acting through the Chief of Engineers, to carry out a national program of inspection of dams for the purpose of protecting human life and property. The Secretary is directed to inspect all dams in the United States except: First, dams under the jurisdiction of the Bureau of Reclamation, the Tennessee Valley Authority, or the International Boundary and Water Commission; second dams which have been constructed pursuant to licenses issued under the authority of the Federal Power

Act; third, dams which have been inspected within the 12-month period immediately prior to the enactment of this legislation by a State agency and which the Governor of the State requests be excluded from inspection; an fourth, dams which the Secretary of the Army determines do not pose any threat to human life or property.

The Secretary would be authorized to inspect dams licensed under the Federal Power Act upon request of the Federal Power Commission and dams under the jurisdiction of the International Boundary and Water Commission upon its request.

For the purposes of the bill, a dam is defined as any artificial barrier which impounds or diverts water and which is 25 feet or more in height or has an impounding capacity of at least 50 acre-feet. It is not the intention of the committee to preclude the Secretary from inspecting, upon appropriate request, smaller dams which do not meet this definition where such dams pose a threat to human life and property.

The Secretary is directed to furnish the results of the dam inspections as completed to the Governor of the State in which the dam is located, and during the inspection to notify the Governor immediately of any hazardous conditions found.

The Secretary is also directed to report to the Congress on or before July 1, 1974, on his activities under the legislation including: First, an inventory of all dams located in the United States; second, a review of each inspection made, the recommendations furnished the appropriate Governor, and the implementation of the recommendations; and third, recommendations for a comprehensive national program for the inspection and regulation of dams of the Nation, and the respective responsibilities which should be assumed by Federal, State, and local governments and by public and private interests.

Given the very large number of dams in the Nation, we realize that in the time allowed for this report it will be impossible for the Secretary to inspect all of them. It is expected, however, that inspection of at least those dams posing a serious threat to human life and property should they fail be completed prior to submission of the study. The Secretary should continue, until completion, however, the inspection of all dams as contemplated by the legislation. Upon completion of such inspection, the authority granted under this legislation will expire.

With the large number of dams in this country, and the growth of industry and urban areas below the dams, together with recent failures, it has become an urgent matter that these structures raise no questions as to their safety. Yet there is no present understanding of the scope and nature of the problem, and therefore no way to determine the type of remedial action to take and the proper roles of Federal and non-Federal interests.

This legislation will, for the first time, provide an accurate assessment of the scope of the problem which the Nation faces with respect to unsafe dams. It will also provide for a study and recommendations for a comprehensive national program for the inspection and regulation for safety purposes of dams of the Nation, and for an appropriate sharing of responsibilities between Federal, State, and local governments and public and private interests.

I urge the enactment of H.R. 15951.

Mr. GROSS. Will the gentleman yield?

Mr. JONES of Alabama. Yes; I yield.

Mr. GROSS. What does the gentleman say is the life of the bill; that is, over how many years?

Mr. JONES of Alabama. There is no time limit under the bill. However, the work authorized under the bill should be completed within 6 years.

Mr. GROSS. Six years.

Mr. JONES of Alabama. We would expect that the Corps of Engineers will submit its report by July 1, 1974. This report should cover the priority dams which should be first inspected.

Mr. GROSS. What would be the cost of the bill? I notice the bill is open ended, or at least it appears to be an open end bill.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. JONES of Alabama. Yes; I yield to the gentleman from California.

Mr. DON. H. CLAUSEN. As contained in the report, the estimated cost over the next 6 years would be $5 million in fiscal year 1973; $15 million for 1974; $15 million for 1975, and tapering off $5 million for each of the next 3 years.

Mr. GROSS. So the bill is open ended; is it not?

Mr. JONES of Alabama. Yes; the report represents our best estimate.

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

Mr. JONES of Alabama. Yes; I yield.

Mr. GROSS. Does the bill provide for construction costs?

Mr. DON. H. CLAUSEN. No.

Mr. JONES of Alabama. No construction costs.

Mr. GROSS. No construction costs. This is simply for a survey of existing dams?

Mr. JONES of Alabama. The gentleman is eminently correct. That is the purpose of the bill.

Mr. GROSS. Why would it cost this kind of money?

Mr. JONES of Alabama. We have approximately 28,000 non-Federal dams that have been constructed all over the country. Had we had this inspection method heretofore in operation, we probably would not have lost the lives and fortunes of the people in West Virginia and South Dakota.

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

Mr. GROSS. Mr. Speaker, I move to strike the requisite number of words.

This bill does not contemplate an inspection of all the dams, for instance, in the Mississippi River?

Mr. JONES of Alabama. No, it does not. Section 2 lists certain dams which are exempt.

Mr. GROSS. What is it limited to?

Mr. JONES of Alabama. If the gentleman will refer to the bill, in the first section—

The term "dam" as used in this Act means any artificial barrier, including appurtenant works, which impounds or diverts water, and which (1) is twenty-five feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation or (2) has an impounding capacity at maximum water storage elevation of fifty acre-feet or more. This Act does not apply to any such barrier which is not in excess of six feet in height, regardless of storage capacity or which has a storage capacity at maximum water storage elevation not in excess of fifteen acre-feet, regardless of height.

Mr. GROSS. And it is anticipated that this survey will cost $90 million?

Mr. JONES of Alabama. It could cost that amount if all the dams eligible under this act were in fact inspected. We do not expect it to come anywhere near that because not all the dams actually require inspection.

Mr. GROSS. Then the Corps of Engineers simply guessed at a figure of what it would cost. Is that correct?

Mr. JONES of Alabama. No; the corps did not guess. The committee tried to make that estimate.

Mr. GROSS. Then the committee guessed that amount?

Mr. JONES of Alabama. Yes, sir; because we were required to place some figure in the report. We had those figures. We figured an estimated cost of approximately $7,500 per dam for major dams, $3,000 for intermediate dams, and $1,500 for small dams.

Mr. GROSS. I am sure none of us want a recurrence of what has happened with respect to some dams in the country, but I still think this is a great deal of money. I regret that the bill is open ended in that respect, and I hope the Appropriations Committee will make available a greatly reduced amount.

Mr. JONES of Alabama. The committee took note of that in the report and I invite the gentleman's attention to page 3 of the report on estimated cost. I will read to the gentleman the language of the committee report:

It is extremely difficult to arrive at an accurate estimate of cost. This difficulty is brought about because of the lack of specific knowledge as to how many of the total number of dams in the Nation are in need of inspection by the Secretary of the Army. There are several good State inspection programs which could eliminate the need for additional inspection of many dams. It is also conceivable that the Secretary will determine after an examination that a detailed investigation is not required. Considering all these factors, it is the committee's best judgment that if all dams were inspected the probable cost would be approximately $90 million. However, it is anticipated that the actual costs will run considerably less.

After that we say:

It should be noted that the report required in 1974 would include recommendations as to the appropriate roles of the Federal Government, States, local governments, and private parties, including cost sharing. Thus, by the end of fiscal year 1974, the Congress

would have an opportunity to reexamine the entire situation based on the first 2 years of reliable experience.

That is what we are seeking to do.

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

(By unanimous consent, Mr. GROSS was allowed to proceed for 1 additional minute.)

Mr. GROSS. Mr. Speaker, is it proposed under the terms of this legislation that the Federal Government embark upon the reconstruction or construction of dams in areas and in places where they are now under the jurisdiction of or were constructed by the States?

Mr. JONES of Alabama. No; this is not the intention. The intention of the committee is to see where there are in fact problems and to advise the Governors accordingly. It does not authorize the Federal Government to extend itself into any program of construction, reconstruction, or repairs.

Mr. GROSS. So the bill in no way is to be construed as embarking the Federal Government on construction or rebuilding of dams?

Mr. JONES of Alabama. No, it does not.

Mr. GROSS. I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I direct my question to the gentleman from Alabama. If this legislation, H.R. 15951, had been in effect prior to the disaster which occurred with the dam in West Virginia, what would it have done with respect to that situation; or would this legislation have applied to that dam?

Mr. JONES of Alabama. Yes, it would have applied to that dam. It would have applied, and the faults and the probabilities as to what took place there would have been pointed out to the Governor of the State of West Virginia. He could have taken immediate action to see either that they discontinued the use of it or that the project be abandoned until such repairs as necessary were made to take it off the danger list.

Mr. ROUSSELOT. I assume the gentleman means the Governor of West Virginia?

Mr. JONES of Alabama. The Governor of West Virginia.

Mr. ROUSSELOT. In the committee report on page 3, as I read it, it is indicated there is an estimated cost by years, 1973 to 1978. According to my addition, the accumulated estimated costs come to $50 million. Why is the committee request for $90 million? Why not come back and ask for more at a subsequent time?

Mr. JONES of Alabama. We have not requested any amount. As the gentleman from Iowa pointed out, these are just general estimates made by the committee. We cannot say with any degree of certainty that that will be the cost.

Mr. ROUSSELOT. Then why could there not be a limitation of $50 million, and then come back for whatever additional is needed?

Mr. JONES of Alabama. It is in the report. It is not in the bill. How can we amend the report?

Mr. ROUSSELOT. The reason that I raise the question is that this type of situation has become a problem in the Congress. We go ahead and spend money like we have it. We do not. We are in debt. I just do not understand why, if there is a base cost of $50 million, we do not just put that limitation in the legislation.

Mr. JONES of Alabama. This will go before the Appropriations Committee. These estimates are required by the rules of the House. They are the best figures we could make on the calculations. We are not wedded to the figures.

Mr. ROUSSELOT. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from California.

Mr. DON H. CLAUSEN. In partial response to the question directed to the gentleman from Alabama relating to the Buffalo Creek, W. Va., I visited that area after the fact, after the disaster. It was tremendously devastated.

That was not an engineered or designed dam. It is what they call tailings from the mining. They had been impounding water behind it. As a result, no one was doing the job.

After the fact, of course, the Governor ordered all these slag piled "dams," which are not engineered or constructed dams, per se, by any construction firm, drawn down. That resolved the problem.

Had this legislation been in effect at that time it would have avoided the problem.

The reason why the committee moved with such dispatch, and why we do not have an accurate estimate, is on the question of holding someone responsible for these kinds of disasters, to protect innocent people.

Mr. ROUSSELOT. I assume the gentleman means when these dams are determined not to be safe, et cetera.

Mr. DON H. CLAUSEN. That is correct. We want to move with dispatch to inventory the total problem in this area where we do not have specific jurisdiction or inspection programs now underway.

The Corps of Engineers and the Soil Conservation Service in the Eastern States have a good track record, in that there were no losses as a result of structures engineered and designed. But in those areas under no degree of inspection we are trying to get at the problem.

If a State agency will certify to the fact and assume responsibility for the fact that they have done the job of inspection, to protect the lives of people, of course that will be taken into account by the Corps of Engineers.

Mr. ROUSSELOT. I thank the gentleman.

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

Mr. ROUSSELOT. I am glad to yield to the gentleman from Louisiana.

Mr. WAGGONNER. I do not believe the gentleman from California (Mr. DON H. CLAUSEN), meant to say that the purpose of the legislation was to be able to hold somebody responsible for actions like this. I believe the purpose of the bill is to pinpoint those dams in the United States which might be dangerous, so that the people who do have responsibility for them will have time to do something about it. Is that not correct?

Mr. DON H. CLAUSEN. I would agree with that.

Mr. Speaker, I rise in support of H.R. 15951 to authorize the Secretary of the Army to undertake a national program to inventory and inspect dams throughout the United States. This legislation is urgently needed as a result of the recent devastating floods experienced in the West Virginia, South Dakota, and the eastern States hit by the rains of Hurricane Agnes. In Rapid City, S. Dak., and Buffalo Creek, W. Va., the failure of impoundment facilities, some of which have never been designed or engineered, produced disastrous results. Many lives were lost and millions of dollars of damage were sustained. Some facilities failed in the States affected by Agnes, and many more which nearly failed threatened downwater residents.

It is interesting to note that those dams designed, engineered and constructed by the Corps of Engineers and Soil Conservation Service in these eastern States actually held and provided the flood protection and security to the people for which the projects were designed and built.

Earlier this year, I joined my colleagues from West Virginia and Iowa in an inspection of the devastation of the Buffalo Creek flood. The mute testimony of the wrecked homes, destroyed property, and the loss of lives impressed upon me the urgency and need to press for legislation to prevent future disasters. Although the impoundment at the headwater of Buffalo Creek which burst and caused the devastation was not a conventional dam as we know them, impoundments such as these need inspection and recommendations are needed to control future potential disasters.

I also call the committee's attention to the report in which the Committee on Public Works notes that it will be impossible for the Secretary of the Army to inspect all of the dams under this legislation and report to Congress under the time constraint of July 1, 1974. It is expected, however, that inspection of at least those dams posing a serious threat, as determined by the Secretary, to human life and property, should they fail, be completed prior to submission of this study. The committee believes this legislation is necessary and urgent to make an accurate and comprehensive study of these non-Federal dams and to make recommendations for a comprehensive national program for the inspection and regulation for safety purposes of all dams of the Nation, and for an appropriate sharing of responsibilities between Federal, State and local governments and public and private interests.

There are several good State inspection programs which could eliminate the need for additional inspection. However, in view of the recent flood disasters and the suffering that resulted, the committee feels that this legislation, at a cost of $90 million over the next 6 fiscal years, will

prove valuable in establishing proper and adequate roles of the Federal, State and local governments, and private parties, including cost sharing.

Mr. JONES of Alabama. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

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

GENERAL LEAVE

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks on the bill just passed.

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

There was no objection.

HIGHWAY EMERGENCY RELIEF

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15950) to amend section 125 of title 23, United States Code, relating to highway emergency relief to authorize additional appropriations necessary as a result of recent floods and other disasters.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 15950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 125 of title 23, United States Code, is amended by adding a new subsection at the end thereof as follows:

"(d) In addition to the sums authorized to carry out subsection (a) of this section, there is hereby authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1973. Sixty per centum of the expenditures under this section are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any moneys in the Treasury not otherwise appropriated. Such sum shall be available for expenditure during the next three succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years. Funds authorized to be appropriated under this subsection shall be available for obligation immediately upon enactment in the same manner and to the same extent as if such funds were apportioned under this chapter."

With the following committee amendment.

Strike out all after the enacting clause and insert: "That clause (1) of the second sentence of subsection (a) of section 125 of title 23, United States Code, is amended to read as follows: '(1) Not more than $50,000,000 is authorized to be expended in any fiscal year ending before July 1, 1972, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after June 30, 1972, to carry out the provisions of this section and an additional amount not to exceed $100,000,000 is further authorized to be expended in the fiscal year ending June 30, 1973, to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years, and'."

Mr. JONES of Alabama. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 15950, which amends section 125 of title 23, of the United States Code. That section specifically provides an emergency fund for the repair or reconstruction of highways on the Federal-aid highway systems, and forest highways, forest development roads and trails, parkroads and trails, parkways, public lands highways, public lands development roads and trails and Indian reservation roads, which the Secretary of Transportation shall find have suffered serious damage as the result of natural disasters. Existing law authorizes $50 million per year to carry out this section of the law and provides that unexpended funds may be carried over to the next 2 fiscal years.

Recent experience has indicated to the committee there is a need to upgrade the authorization for this particular section. The bill before you increases the authorization on a permanent basis from $50 million to $100 million a year beginning with fiscal year 1973. In addition an additional $100 million is also authorized for fiscal year 1973 to take care of the recent damages that have hit highways in the five Eastern States as a result of Hurricane Agnes and other recent disasters.

This is simple legislation. It is an increase in funding for a needed program. I recommend its passage.

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

Mr. JONES of Alabama. I am happy to yield to the gentleman.

Mr. HARSHA. Mr. Speaker, recently the President requested Congress to take action to provide relief for damage suffered by our highways as the result of Hurricane Agnes and other recent disasters.

The need for the President's request demonstrated to the Public Works Committee that our existing provisions in the law under section 125 of title 23 of the United States Code for the repair of disaster damaged highways is inadequate. The law now provides for $50 million a year authorization for the repair or reconstruction of highways on the Federal-aid highway systems, forest highways, forest development roads and trails, park roads and trails, public lands highways, public lands development roads and trails, and Indian reservation roads existing which the Secretary of Transportation shall find have suffered serious damage as the result of natural disasters. Existing law provides that unexpended funds may be carried over to the next 2 fiscal years.

When this provision was enacted into law, we believe that such a fund would be adequate to establish a permanent program of highway repair.

The year 1972 has demonstrated that we did not go far enough. Hurricane Agnes, the Buffalo Creek disaster in West Virgina, and the Rapid City, S. Dak., floods combined to make this a special year.

In addition, a study of the projects relating to 1972 shows that when all those projects are obligated there will be no carryover into fiscal year 1973. Indeed, the estimates that our committee has received indicate that there may be a deficit of approximately $7 million.

Mr. Speaker, I believe that the need for this legislation is manifest. I also believe that the best way to handle this problem is to provide a permanent program. It is for this reason that the committee chose to report to this House a bill that will provide adequate funds if only to accommodate the repairs necessitated by Hurricane Agnes and other recent disasters but in addition to provide a cushion against future disasters.

I urge the support of this legislation to the Members of this body.

Mr. KLUCZYNSKI. Mr. Speaker, within the past month, we have seen new and tragic evidence that the forces of nature are unpredictable, that, in spite of all our modern safeguards, they can turn against man with uncontrollable fury.

The torrential June rains that flooded Rapid City, S. Dak., and a vast area of the Northeastern United States, with a terrible loss of life, are past and all but forgotten by those who were fortunate enough to live outside the disaster areas. But the almost unbelievable devastation wrought by those floods remains as a reminder of our helplessness in the face of natural catastrophe.

Mr. Speaker, we know we cannot avert such natural disasters; they are beyond man's control. But we can and must be prepared to cope with their effects, to bring emergency help to the victims, to repair the havoc they leave in their wake.

The purpose of H.R. 15950 is to establish a permanent, continuing emergency relief fund to deal with one of the major crises brought on by such disasters—the destruction of our essential highway and road systems.

I am convinced, Mr. Speaker, that, while we may hope fervently that such catastrophes will be few and far apart, we must be prepared to cope with them at any time. We must have an emergency relief program of sufficient scope to eliminate the need for special legislation to deal with each new disaster as it occurs.

That is the purpose of H.R. 15950, Mr. Speaker, and I congratulate the Members of the House for their endorsement of this long-needed legislation.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. JONES of Alabama. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

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

GENERAL LEAVE

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

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 13089, OF TREES ON NATIONAL FOREST LANDS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13089) to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. FOLEY, BURLISON of Missouri, VIGORITO, KING, and KYL.

DEMOCRATIC PLATFORM SUPPORTS STRONG ACTION AGAINST CONCENTRATION OF ECONOMIC POWER

(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, much of the bombast about support and nonsupport for the Democratic ticket has obscured some very significant positions taken in the platform adopted at Miami Beach last week.

Mr. Speaker, all Democrats should be pleased that our party has returned to a very strong position against concentration of economic power. The platform plank on this question is one of the best statements to ever come out of a Democratic Convention and I hope that when Democrats get over their petty differences, we will unite in an effort to carry out this plank.

Mr. Speaker, I want to quote the lead paragraphs from the Democratic platform under the heading, "Toward Economic Justice":

> The Democratic Party deplores the increasing concentration of economic power in fewer and fewer hands. Five percent of the American people control 90 percent of our productive national wealth. Less than one percent of all manufacturers have 88 percent of the profits. Less than two percent of the population now owns approximately 80 percent of the nation's personally-held corporate stock, 90 percent of the personally-held corporate bonds and nearly 100 percent of the personally-held municipal bonds. The rest of the population—including all working men and women—pay too much for essential products and services because of national policy and market distortions. 'The Democratic Administration should pledge itself to combat factors which tend to concentrate wealth and stimulate higher prices.'

The platform goes on to pledge the party to support programs to spread economic growth among workers, farmers, and small businessmen and to step up antitrust action "to help competition, with particular regard to laws and enforcement curbing conglomerate mergers which slow up efficient small business and feed the power of corporate giants."

The Democratic Party also calls for a strengthening of antitrust laws and a deconcentration of monopolies such as auto, steel and tire industries "which administer prices, create unemployment through restricted output and stifle technological innovation."

Mr. Speaker, there are other equally strong statements against the concentration of economic power and a return to vigorous antitrust action. And it is regrettable that this section has not received more attention in the press.

There are many sections of the platform on which Democrats can debate their differences but this section on economic justice is basic to the party and to the segments of our society which have traditionally supported Democratic presidential candidates.

Mr. Speaker, I hope that the Democratic presidential candidate and his running mate and the Democratic candidates running for election to the House and Senate will do their utmost to publicize the need for strong action against economic concentration in the coming months and that the new administration will embark on immediate steps to implement this section of the platform.

NOMINATION OF SENATOR THOMAS F. EAGLETON AS VICE PRESIDENTIAL CANDIDATE ON THE DEMOCRATIC TICKET

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

Mr. HUNGATE. Mr. Speaker, the State of Missouri has again been honored with the nomination of one of its Senators for the high office of Vice President. With the record Senator Harry S. Truman made upon his election as Vice President and later as President, we Missourians are proud to have Senator THOMAS F. EAGLETON similarly honored.

I would share with you the statement he made to his Missouri constituents upon his nomination:

> THE NEXT FEW MONTHS
>
> Last Thursday I was honored, privileged, and flattered to be nominated for the office of Vice President of the United States.
>
> To say the least I was surprised. But it was with deep humility in the face of the responsibility I was asked to assume—and with profound gratitude—that I accepted the nomination. With God's help and with that of the people of Missouri I committed myself to the difficult task that lies ahead.
>
> I accepted with confidence . . . because I think all the surprises of 1972 have shown us something important about ourselves as Americans.
>
> We are learning to live with some of those surprises . . . even to like them.
>
> We are learning to find opportunity in them . . . not just uncertainty and fear.
>
> We are learning the importance of bold vision . . . vision to provide the guidance denied us in these uncertain times.
>
> START UP AMERICA
>
> Friends, America has been stalled for four years . . .
>
> Stalled in the senseless war in Vietnam . . .
>
> Stalled economically here at home . . . with millions and millions of Americans idled by needless unemployment.
>
> Stalled in the desperate fight to save our beleaguered cities . . .
>
> Stalled in providing adequate funding for our schools . . .
>
> Stalled in the efforts to preserve our precious and vanishing environment . . .
>
> Stalled in its deeply felt need to find a new direction for its citizens . . .
>
> NO CONFIDENCE
>
> From the people who promised to "bring us together," we have gotten deception and more mistrust.
>
> From the people who promised "the lift of a driving dream," we have a sodden mound of trampled hopes.
>
> And so we have an electorate so jaded by gimmickry that their healthy skepticism about politics . . . and about politicians . . . has escalated into a total lack of confidence in the current administration.
>
> RETURN TO BASIC PRINCIPLES
>
> John Kennedy taught us to ask not what our country can do for us, but what we can do for our country. And, indeed, what we have learned since then is one of the hard and bitter lessons of our time, is that there are limits to what even a great and mighty nation can do.
>
> For four years . . . with cosmetic diversions and callous disregard for the intelligence and the conscience of our citizenry . . . Richard Nixon has tried to make us forget what our nation should do . . . and, if we are to be true to our heritage, what our nation must do.
>
> George McGovern has offered us the opportunity to return to the principles upon which America was founded . . . to ask what we can do for one another . . . and, together, what we can do for our country and for mankind.
>
> In Richard Nixon we have a President who has traveled to the far reaches of our globe . . . who tells us that his greatest thrill comes from sending Americans to distant planets . . . but who has yet to study the mood and spirit of his own countrymen.
>
> LOST OUR LEADERSHIP
>
> You and I know that mood and that spirit. All is not well . . . and we know it. But it is not because, as some would have us believe we Americans have lost our way. We have not lost our way. All we have lost is the leadership to show us the way.
>
> We can regain that leadership this fall. 1972 can be the year, not when America lost its way, but the year when America found its conscience.

TRIBUTE TO DR. WILLIAM T. PECORA

(Mrs. HANSEN of Washington asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Mrs. HANSEN of Washignton. Mr. Speaker, I wish to join my colleagues in paying tribute to the memory of Dr. William T. Pecora, Under Secretary of the U.S. Department of the Interior who died at the George Washington University Hospital on July 19.

It has been my pleasure to have been associated with Dr. Pecora for many years. He first appeared before the House Subcommittee on the Department of Interior and Related Agencies Appropriations which I chair, as Director of the U.S. Geological Survey. He also represented the U.S. Department of the Interior in his role as Undersecretary.

Dr. Pecora was one of the most expert witnesses who ever appeared before the

committee. His limitless knowledge and deep concern for the natural resources of this country combined with his sense of humor and his ability to translate intricate scientific activities into layman's terms always made the hearing session interesting and edifying.

Dr. Pecora's achievements in the scientific world were many and impressive. He was held in highest esteem by his peers. Despite the active life he lead, he was never too busy to be a friend.

The Nation has lost a faithful servant, and our people have lost a fine humanitarian.

I extend my utmost sympathy to his wife and two children.

ASSISTANCE TO RURAL AMERICA

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

Mr. MIZELL. Mr. Speaker, I rise at this time to announce my intention of offering an amendment to the bill establishing a new Cabinet-level Department of Community Development, if that bill is reported to the floor by the Committee on Rules.

This bill in its present form seems not to place strong enough emphasis on rural problems and rural development. This lack of emphasis stands in sharp contrast to the forceful influence and active concern which the existing Department of Agriculture has consistently demonstrated for rural America throughout its long history.

Thus, my amendment will seek to insure that at least the same level of funding which we are now providing for rural America through the many USDA programs now in existence will be maintained in any new department which the Congress might establish.

We are now at a point where a great many legislators, including myself, are seeking to provide even greater assistance to rural America through a variety of new legislative proposals. My amendment will guarantee that we advance toward the goal of more comprehensive rural development, rather than retreating from that goal, as this legislation in its present form seems to demand.

RECENT INVESTIGATION OF SUPREME COURT JUSTICE WILLIAM O. DOUGLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. WAGGONNER) is recognized for 60 minutes.

(Mr. WAGGONNER asked and was given permission to revise and extend his remarks and include extraneous material).

Mr. WAGGONNER. Mr. Speaker, I rise on this occasion to address this body to a matter that has caused great concern to me in the past year. I rise not in a posture of pleasure for having been proven correct, as will later be demonstrated, but rather reluctantly wishing for the sake of our Republic, that my thoughts during the past year might have been in error and that the occasion to offer the following address would never have occurred.

But, in fact, they have and I must, in good conscience, report them. I speak of the peripheral recent investigation by a Special Subcommittee of the Committee of the Judiciary of Justice William O. Douglas.

On September 17, 1970, the special subcommittee, following a so-called extensive investigation into the fitness of Justice Douglas to remain on the bench of the highest Court in this land, concluded, among other things, that the special subcommittee had "no evidence that Justice Douglas was involved in any way, directly or indirectly, with organized crime"—page 77 of the report of the special subcommittee. This conclusion was believed by me and others at the time to be premature, and contrary to the historic investigative traditions of this body. I have maintained silence following its publication, while harboring the quiet belief of its error, I can report that the subcommittee's conclusion has been refuted by unimpeachable documentation.

Although it is axiomatic that all persons strive for the day when their earlier repudiated beliefs are proven to be accurate, I continue to caption as "unfortunate" the revelations of Justice Douglas' direct involvement in organized crime.

It is unfortunate for at least two reasons. They are: First, that a member of the highest judicial body in this land knowingly associated himself with individuals who are notoriously involved with the cancer that spreads our land known as organized crime. Second, that when this great body undertook on behalf of the American citizens to explore the credibility of that charge over 1 year ago, and an investigative committee of this body charged with that responsibility chose rather than to investigate, to evaporate the charges while, by inuendo, to attack the credibility and motives of those individuals who would raise such questions.

I was, and continue to be to this day, one of those individuals who raised the charge of organized crime influence, I do not shirk, recount, or retract this charge. Rather, my intuitive belief has been reinforced with facts. Facts and evidence discovered by others than the subcommittee. Facts which clearly and unambiguously place the finger of organized crime involvement on a Justice of the Supreme Court of the United States.

What are these facts? By way of background I would respectfully remind this body that on August 1, 1970, I wrote the chairman of the committee who chaired the special subcommittee charged with the responsibility of investigating Justice Douglas. At the time of that writing, the so-called investigation had been in being for approximately 3 months. A self-serving interim report had been filed by the subcommittee describing its work to date as being "energetically pursued," as performing "(a) vast amount of work" and supportive of its earlier premise that "no stone would be left unturned." I believed differently and urged for a "full, fair, and factual inquiry conducted in a normal means for which Congress uses its broad powers to inform itself and the American people." I was particularly concerned with the absence of any subpenas having been issued and the total absence of any information gathered by subcommittee staff under oath.

I had obtained information reasonably calculated to cause belief that Justice Douglas had direct ties with the organized crime syndicate. A special counsel retained by me diligently pursued this matter concurrent with the so-called investigation of the subcommittee and reported regularly of his progress. Based on information received, I compiled in my August 1, 1970, letter to the chairman of the subcommittee a listing of 14 individuals, urgently requesting that these men be subjected to extensive cross-examination under oath, in order to find the link or links between the organized crime syndicate and Justice Douglas. None of these men were called. In fact, no witnesses were ever subpenaed.

The first two names on my list of 14 were Messrs. Albert Parvin and Meyer Lansky. That in August 1970 the name Meyer Lansky should not be synonymous with organized crime, should not conjure up a 1960 counterpart of the infamous Al Capone and should not register immediately in the minds of the citizens of this great Nation as the chief source of cancerous crime, was unfathomable to me. In every sense of the word, Meyer Lansky is a notorious syndicate chief. Not only was Lansky not subpenaed and not subject to perjury under oath, rather, he was avoided by the subcommittee. Page 177 of the final report of this subcommittee acknowledges that—

> No investigation was made . . . of Meyer Lansky . . . other than to the extent necessary to establish the relationship, if any, to (Justice Douglas).

As earlier stated, the subcommittee found no relationship existed.

It is sad to note that not only has a fully documented relationship been shown to exist, but that information was developed and published by two young reporters for the Journal Herald, Dayton, Ohio, named Andrew Alexander and Keith McKnight.

On June 12, 13, and 14, 1972, the Dayton Journal Herald published three articles revealing that nearly $200,000 was paid to mobster Meyer Lansky throughout the period from March 1961 through September 1967, from funds of the Albert Parvin Foundation while Justice Douglas served as its president and chairman of the financial committee.

The Albert Parvin Foundation was allegedly established as an eleemosynary foundation whose stated corporate purpose was to promulgate and promote better relations with other nations of the world through education. This laudatory purpose was converted during Justice Douglas' tenure, to pay $200,000 to America's No. 1 mobster in quarterly payments during a 6-year period. The payoff was disguised as a payment of compensation to Lansky for the rendered service of locating a buyer of a Las Vegas, Nev., casino that the foundation held no interest in. Albert Parvin himself, a friend and confidante of Justice Douglas, is cited in the articles as being "connected for more than 20 years with the financial interests of the internationally known mobster Meyer Lansky."

What hidden compensation, if any, Justice Douglas received for his role in this activity is unknown, but it is the subject of legitimate inquiry. Why an alleged philanthropic foundation dealt in the sale of a Las Vegas casino which it never owned and paid $200,000 of foundation funds to the Nation's, if not the world's, biggest mobster is unknown, but it too should be the subject of a legitimate inquiry. Why the U.S. Department of Justice has incorporated Lansky's receipt of this money from the Albert Parvin Foundation, authorized by its president, Justice Douglas, into a criminal indictment in the U.S. District Court for the District of Nevada—U.S. v. Lansky, Criminal No. 2408, Count 3—too should be the subject of legitimate inquiry.

Why is it, Mr. Speaker, that two reporters working without subpena power, without staff and without the full investigative force of the executive and legislative branches of the Federal Government should uncover this information, after a special subcommittee of this House failed to do so?

I am troubled by these and other questions, as are other Members of this body. I believe the American public is equally troubled. At a time in our history where national confidence in the Federal Government appears to be eroding, is it not incumbent on the Congress to step forward and announce that an error has been made by its investigative body?

Documented information has been developed and substantiated by the U.S. Department of Justice, which information was apparently unknown to the subcommittee. But, why did the subcommittee refuse to heed the warnings of its honorable Member from New Hampshire, LOUIS WYMAN, whose record of achievement includes the position of State attorney general, when he pleaded with the chairman in a letter on August 12, 1970:

> I am informed that the Subcommittee has not yet called a single witness, nor taken a single word of testimony under oath, nor held a single hearing.

Congressman WYMAN wrote the chairman again on August 14, 1970, reinforcing his desire to have testimony under oath and provided a listing of 16 prospective witnesses recommended to be subpenaed before the subcommittee.

Thus, in all, two Members of this body who were not privileged to be seated on a select subcommittee, suggested the names of 30 different witnesses to be subpenaed and interrogated under oath. None were called. No records were subpenaed. No cross-examination occurred.

I am convined that had that suggested course been followed, that committee would have uncovered the $200,000 Lansky payoff by the Albert Parvin Foundation while Justice Douglas served as its president and chairman of its finance committee. I am further convinced that had that information been developed by the subcommittee their conclusion and recommendation would have differed and that this body would have thereafter acted accordingly.

But all of that is too late to do anything about it now. Or is it? There remains the glaring question of what we can do to erase this dual embarassment. A Supreme Court Justice who compensates a Meyer Lansky and a committee of the Congress that fails to properly discharge its duties.

Mr. Speaker, I ask unanimous consent of the House, notwithstanding the estimated cost by the Public Printer of $1,360 to publish in the CONGRESSIONAL RECORD the June 12, 13, and 14, 1972, articles appearing in the Dayton Journal Herald by Messrs. Alexander and McKnight, along with a copy of the indictment in United States against Lansky referred to earlier.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The information referred to is as follows:

[From the Dayton (Ohio) Journal Herald, June 12, 1972]

JUSTICE DOUGLAS WAS PRESIDENT: FOUNDATION PAID MOBSTER LANSKY

(By Andrew Alexander and Keith McKnight)

Nearly $200,000 paid to mobster Meyer Lansky was diverted from funds of a foundation headed by U.S. Supreme Court Justice William O. Douglas, according to Justice Department sources.

The Journal Herald, following a lengthy investigation, had the information confirmed by separate sources with Justice Dept. ties.

Douglas has denied knowledge of the payments.

The payments to the internationally known mobster were apparently drawn as the result of an encumbrance upon money which was earmarked for the foundation.

During virtually all of the period the payments were being made—from March, 1961, through September, 1967—Douglas was the president and only paid officer of the organization, the Albert Parvin Foundation.

Douglas was also chairman of the foundation's finance committee during part of the time Lansky was receiving payments.

The basic allegation that money was channeled to Lansky from foundation funds is contained in an indictment returned last Oct. 22 by a federal grand jury in Las Vegas.

That indictment charges that Lansky and three other persons conspired to conceal and distribute about $36 million in unreported income from the Flamingo Hotel and Casino in Las Vegas.

It further states that the $200,000 was paid to Lansky from proceeds of the operation of the Flamingo "through Hotel Flamingo Inc. and the Albert Parvin Foundation.

Douglas, through his Washington attorney David Ginsburg, declined to be interviewed.

Albert B. Parvin, a wealthy Los Angeles-based financier who created the foundation, failed to respond to a written request for an interview. Parvin has numerous connections to underworld figures.

Attempts to reach Lansky in Israel, where he took up residence with his wife in 1970, failed.

Last week, Lansky and another associate—Dino Cellini of Youngstown—were indicted by a federal grand jury at Miami for conspiring to avoid paying taxes on money received from gamblers on junkets to George Raft's Colony Club in London.

Two days later, Lansky was again indicted by a federal grand jury at New York on charges of filing false tax returns in connection with the money he allegedly received from the gamblers.

Lansky is widely recognized as the financial genius of organized crime. A report by Interpol, the international criminal police organization, describes Lansky as "one of the top Jewish associates in a syndicate of high-ranking hoodlums of Italian extraction, who control the major rackets in the U.S. and Canada."

Lansky's sudden departure for Israel preceded by eight months his indictment by a Miami federal grand jury in March of last year on charges of conspiring to violate gambling laws and to conceal proceeds from the Flamingo.

The Miami indictment was later replaced by the Oct. 22 Las Vegas federal grand jury indictment. Lansky has refused to return to face the charges—even though the government has offered to pay for his trip home.

The 69-year-old mobster is appealing to the Israeli High Supreme Court against an Interior Ministry ruling denying him permission to stay in that country. He had been granted a temporary tourist visa until the Israeli government last September decided he was a threat to public peace and not eligible for Israeli citizenship because of his criminal connections. The court's decision is expected soon—possibly this month.

The $200,000 was awarded to Lansky as a "finder's fee" in connection with the sale of the Flamingo in 1960 for $10,465,000 to a group of Florida-based investors headed by hotelmen Morris S. Lansburgh and Sam Cohen.

Lansburgh and Cohen failed to respond to written requests for interviews.

Both men were named as defendants with Lansky in the Oct. 22 indictment and both are considered by Justice Dept. officials as significant figures in organized crime.

The Flamingo—Before the 1960 sale—had been owned by Hotel Flamingo Inc., a company whose president was Albert Parvin.

On March 21, 1960, the stockholders and directors agreed to liquidate the company assets within a year.

Eight days later company directors voted unanimously to sell the hotel and casino to the Lansburgh-Cohen group. Parvin presided over the meeting as chairman.

Then, less than two months later—on May 12—an agreement was signed between Lansky and Parvin (on behalf of Hotel Flamingo Inc.) awarding Lansky the $200,000 "finder's fee" and stating that "it has been solely through the information and advice supplied by Lansky" that the sale to the Lansburgh-Cohen group could be made.

The federal government, in its Oct. 22 indictment reiterates that it was Lansky who was responsible for bringing the buyer and seller together.

The government is contending that the sale of the Flamingo helped pave the way for the Lansky-Cohen-Lansburgh conspiracy to collect and distribute millions of dollars in unrecorded gambling proceeds.

The government charges the conspiracy led to the illegal "skimming" of Flamingo casino income by concealing from Nevada gambling authorities and the U.S. Treasury Dept. the real receipts from the casino through understating its income by about $4.5 million a year.

On July 25, 1960—several months after the sale of the Flamingo and the contract to pay $200,000 to Meyer Lansky—Albert Parvin wrote a letter to Justice Douglas.

Both men have since said it was the first communication between them.

Parvin said he had just read "America Challenged," a book based on lectures by Douglas.

"So moved and impressed was I by its contents," Parvin wrote, "that it gave spark to an idea that has emboldened me for many years.

"It is my desire to endow a trust or foundation for the sole purpose of promulgating and promoting better relations amongst nations through education," he continued.

"I would be highly honored if you would aid in establishing and directing the functional and administrative policies of the foundation."

Douglas agreed and by the end of the year the foundation was incorporated in California and eventually received tax-exempt status.

Its incorporators were Parvin, Douglas and

William J. Campbell, who was chief federal judge of the Northern District of Illinois.

Throughout the 1960s, the foundation maintained at several well-known American universities fellowship programs for students from underdeveloped countries.

The board of directors of the foundation during most of that time—in addition to the incorporators—included such notables as Harry S. Ashmore, the Pulitzer Prize-winning journalist; Robert M. Hutchins, chairman of the Center for the Study of Democratic Institutions, and Robert F. Goheen, president of Princeton University.

But despite the prestige of some of its board members, critics of the foundation point out the numerous links between Parvin and organized crime.

Federal agents, congressmen and congressional aides have told The Journal Herald they believe Parvin has used the philanthropic activities of the foundation to provide a legitimate front for underworld activities.

Regardless of those charges, it was Parvin who set up the vehicle for payments to be diverted from foundation funds to Lansky.

Between December, 1960, and March, 1961—shortly after the foundation was incorporated and after the decision to sell the Flamingo—Parvin donated to the foundation 2,085 shares of stock in Hotel Flamingo Inc. Market value of the stock at the time was estimated at $1.6 million.

Then on March 10, 1961, as part of the liquidation of Hotel Flamingo Inc., the shares donated by Parvin to the foundation became part of a "custodian" or "trust" account maintained by the Bank of America in Beverly Hills, Calif.

Thus, through the shares donated by Parvin, the foundation quickly became the largest of 18 stockholders in Hotel Flamingo Inc. who were to receive the proceeds of the Flamingo sale.

Purpose of the "custodian account" was to allow the Bank of America to handle the distribution of funds from the sale to the various stockholders since Hotel Flamingo Inc. was being dissolved.

The donation of Flamingo shares by Parvin allowed the foundation and other shareholders to collect large monthly payments from the Flamingo Hotel liquidation.

It also provided the avenue for nearly all of the $200,000 finder's fee payments to be paid from the share due the foundation to Lansky, who was known as the "money boss" of organized crime.

Lansky began receiving the $200,000 on Jan. 2, 1961, with an initial quarterly payment of $6,250.

According to an Internal Revenue Service memorandum of early 1963, this first $6,250 was paid through Hotel Flamingo Inc. since the company had not yet been dissolved and the custodian account was not yet opened. The IRS memorandum was made public in a report issued by a House judiciary subcommittee which in 1970 investigated possible grounds for impeachment of Douglas.

The remaining $193,750, the IRS memorandum said, was to be paid from the custodian account at the Bank of America.

This point is confirmed, according to the 1963 IRS memorandum, by a trust officer of the bank.

He told the IRS that the bank maintained a custodian account opened March 10, 1961, and identified as "SMP–521–Parvin."

The trust officer, according to the memorandum, confirmed that the account contained a "fixed liability" of $193,750.

A source has confirmed for The Journal Herald that the money for Lansky was drawn only on the foundation's share of the custodian account.

In other words, the foundation paid almost the entire "finder's fee," rather than having it paid proportionally by the other stockholders or sellers.

Officials of the Bank of America refused to discuss the custodian account with The Journal Herald.

However, exhaustive inquiries by and for The Journal Herald have produced only two persons who dispute the claim of the Oct. 22 indictment that payments were made to Lansky from foundation funds.

One is Alex Bellows, a Los Angeles accountant who served as an accountant for the foundation. He flatly denied the allegation.

The other is Kenneth R. Harkins, who headed the staff of the special House judiciary subcommittee which investigated possible grounds for impeachment of Douglas in 1970.

Harkins said he believed he had—in the course of the investigation—viewed the checks to Lansky, but he wasn't sure.

He claimed the foundation had nothing to do with the payments.

However, representatives of the IRS and Justice Dept. maintain the accuracy of the claim in the indictment.

The Journal Herald conducted interviews with federal agents in Miami, Los Angeles and Washington, in addition to several former IRS "special agents" who had—in the last 10 years—been involved in various investigations of Parvin and Lansky. It was agreed that the agents would not be further identified.

In most cases, the agents said they could not discuss the payments to Lansky or any other aspect of the Oct. 22 indictment.

But several agents conceded intimate knowledge of the subject and, under questioning, did not deny knowledge that payments to Lansky were made from funds of the foundation, as alleged in the indictments.

One source claims that regardless of the checks subcommittee investigator Harkins believes he saw, those checks will give no indications the money came from the foundation.

He said that payments were made on Bank of America checks, and were signed by a bank officer.

Confidential bank records would show that the payments were drawn only upon the foundation's percentage of the custodian account, he said.

In addition, the allegation was confirmed for The Journal Herald through a high Justice Dept. official, who maintains the accuracy of the Oct. 22 indictment.

The quarterly payments of $6,250 were made to bank account No. 23151 at the First National Bank of Hollywood, Fla., near Lansky's residence at the time.

Bank officials in Hollywood declined a written request to verify details of the payments, or that account No. 23151 was held in Lansky's name.

However, a personal letter to Parvin from New York attorney Benjamin Messinger, dated Sept. 7, 1960, would seem to verify that Lansky got the money.

Messinger, who refused to be interviewed about his role in the Flamingo sale, wrote: "Enclosed herewith please find signed contract for your records. The checks are to be made out to the First National Bank of Hollywood, Account No. 23151, and mailed to the First National Bank of Hollywood, Hollywood, Florida. They will be credited to Meyer's account."

Regular quarterly payments of $6,250 were made to Lansky until late in 1966.

Final payments totaling $50,000—according to the Oct. 22 indictment—were made Dec. 30, 1966, and March 31, June 30 and Sept. 8, 1967.

The September payment was the final portion of the $200,000.

Whether or not the foundation directors—with Douglas as president—knew money was being paid to Lansky from foundation funds has never been conclusively established.

In October of 1969, when the Parvin-Lansky agreement was first made public, Douglas issued a statement saying: "I never had anything to do with the transaction and I never knew anything about it. I had no information whatever about it."

But at that time, has not been alleged publicly that Lansky was receiving the money through the foundation.

The question now likely to be raised is whether Douglas—as a fiduciary through his role as paid foundation president, a director and chairman of the finance committee—should have known, or made an attempt to know, about all financial transactions involving the foundation, including payments to an internationally known mobster.

The fact is that Parvin—virtually unchecked by Douglas or other directors—was allowed to maintain almost complete control over the foundation's financial dealings during most of the period Lansky was receiving payments.

From the foundation's inception until April of 1967, Parvin served as chairman and sole member of the finance committee.

Parvin's only assistance during that time came from Harvey L. Silbert, a Beverly Hills attorney and gambling figure who was treasurer of the foundation for four years prior to April of 1967, when he was elected a director as well.

Silbert, who is chairman of the board and a major stockholder of the Riviera Hotel in Las Vegas, would not allow a telephone interview.

He has been connected with Las Vegas hotel and gambling operations for more than 15 years and was also a vice president, director and stockholder of Parvin's furnishing and kitchen supply company, the Parvin-Dohrmann Co.

He also served as attorney for hotelman Milton Prell and was instrumental in arranging for the Parvin-Dohrmann Co. in 1968 to swallow the Prell Hotel Corp., which owned the Las Vegas Aladdin Hotel and Casino.

Silbert was no stranger to Douglas. They had met frequently through their work with the foundation, and in March of 1963, Silbert accompanied Parvin and Douglas to the Dominican Republic—purportedly to check on a foundation literacy project.

Parvin and Silbert held a tight grip on the foundation's financial affairs until late in 1966.

At that time, Douglas and several other directors learned of a massive investigation by the IRS into the financial interests of Parvin and the Parvin-Dohrmann Co.

The IRS probe, known as "Operation Complex," involved 41 agents and reached into eight states. The IRS claims its agents examined 200 individual tax returns and about 300,000 documents.

The investigation was concluded in April of 1967 with the recommendation, in a confidential IRS report, that no criminal action by taken against Parvin and that he be deleted from the Organized Crime List.

By that time the directors of the foundation had already hired the prestigious Washington law firm of Arnold & Porter to make certain the foundation's financial transactions were within the law.

The Arnold & Porter attorney who represented the foundation was Carolyn Agger, wife of the former Supreme Court justice, Abe Fortas.

As one of her first suggestions, she urged that Parvin be completely divorced from matters involving the foundation's finances.

In a Nov. 17, 1966 letter to director Harry S. Ashmore, Parvin strongly objected to the suggestion:

"Honestly, Harry, what is wrong with me? And frankly, what does Miss Agger think I am? I am certain that the financial and investment program of the Foundation, if handled by anyone but me, would result in a loss of income to the Foundation of perhaps $50,000 to $100,0000 per year."

But despite Parvin's protests, the foundation moved to at least diminish his control over the finances.

At a directors meeting April 12, 1967, in

Washington, it was decided that in addition to Parvin, Douglas and Robert Goheen should serve on the finance committee.

And it was also decided to hire a professional investment firm to take over Parvin's job of handling the foundation's stock portfolio.

And the minutes of that meeting also reflect that Harvey L. Silbert was elected a director and "as Treasurer, was authorized to sign checks on behalf of the Foundation."

But despite these changes—presumably because the Bank of America, and not the foundation, was handling the payments to Lansky—according to the Oct. 22 indictment—the money continued to flow to him.

And with Douglas serving as a member of the finance committee as well as foundation president and a director, Lansky received the final two payments of his $200,000 fee on June 30 and Sept. 8 of that year.

[From the Dayton (Ohio) Journal Herald, June 12, 1972]

PROBE: NO HEARINGS, NO AFFIDAVITS, NO SWORN TESTIMONY

(By Andrew Alexander and Keith McKnight)

In September 1970, a special House Judiciary subcommittee announced the findings of its investigation to determine if William O. Douglas was fit to be a member of the U.S. Supreme Court.

The report concluded he was fit.

The special subcommittee had been formed earlier that year after the House minority leader, Gerald R. Ford, R–Mich., blasted Douglas on the House floor.

In addition, Rep. Louis C. Wyman, R–N.H., had authored a resolution—signed by more than 100 members of the House—calling for an investigation of Douglas.

Ford and other congressmen had accused Douglas of everything from supporting violent revolution in America to peddling articles for erotic magazines.

But the thrust of Ford's attack centered on Douglas' connections—however tenuous—with the underworld.

And it came as no small shock to them when the special subcommittee reached the conclusion that it had "no evidence that Justice Douglas was involved in any way, directly or indirectly, with organized crime."

Rep. Joe D. Waggonner Jr., D–La. who was not a member of the investigating subcommittee, branded the probe a "whitewash."

At its organizational meeting, the special subcommittee (according to its first report) agreed to "elicit all relevant information and materials from every source" and the subcommittee staff was directed to "leave no stone unturned in its efforts to obtain a full disclosure of all pertinent information."

While the subcommittee, under the supervision of the Judiciary Committee chairman, Emanuel Celler, D–N.Y., says it viewed thousands of documents supplied by federal agencies, it never exercised its power of congressional subpoena.

No hearings were held.

No depositions were taken.

No affidavits were sought.

In short, in its effort to "elicit all relevant information," the subcommittee took no information under oath, nor did the subcommittee ever talk directly to Justice Douglas.

Subcommittee staff members stress that they were given complete access to Douglas' personal files, although they grant damaging documents could have been removed before they began their search.

But any information the subcommittee desired directly from Douglas came through his attorney, a former New York Federal District judge, Simon H. Rifkind.

Rifkind told The Journal Herald he had offered to allow the subcommittee to take sworn testimony of his client, but the offer was never accepted.

Furthermore, Daniel Levitt, another member of Rifkind's firm, said that in September of 1970 a formal offer was made to the subcommittee to proceed with public hearings to "clarify the charges and clear the air."

However, Levitt told The Journal Herald: "I was told by a (subcommittee) staff member after the investigation was over, several months after it was over, that (Congressman) Ford had indicated to the subcommittee that he was not interested in having it proceed to hearings."

Ford, when informed of Levitt's statement to The Journal Herald, termed it an "unequivocal lie."

In one of its interim reports, the subcommittee apparently reasoned that testimony under oath was not needed because "thus far all potential witnesses have been cooperative."

But as Ford later protested: "How can the appearance of cooperativeness ensure that the potential witness is telling the truth, much less the whole truth. The purpose of the subpoena power . . . is to produce testimony under oath and subject to the penalties of perjury."

Since Ford's protest, there have been claims that the decision not to take testimony under oath was that of the Democratic chairman, Celler.

Attempts to interview Celler failed.

However, Harkins—the subcommittee investigator who says he wrote the final report—said "it was my decision, it was my recommendation" to the subcommittee not to take testimony under oath.

"If you want to know who to blame, blame Ken Harkins," he said.

Harkins said sworn testimony "wasn't necessary."

What's the sanctity of the oath as far as accuracy is concerned?" he asked. "There's no more penalty for being under oath and making a false and misleading statement than there is not being under oath and making a false and misleading statement."

Dougald D. McMillan, chief of the Miami Justice Dept. Strike Force, disputes that view.

Following testimony last year by Albert Parvin before a Miami grand jury, McMillan took the rare step of going into open court to indicate that Parvin had told the special subcommittee something quite contradictory to what he told the grand jury.

McMillan confirmed for The Journal Herald that he could not prosecute Parvin on charges of perjury because the special subcommittee had failed to take sworn testimony.

Harkins, when confronted with this situation, admitted that "if he (Parvin) had submitted a written statement and signed his name to it" or if sworn testimony had been taken, "that would be better evidence than our recollection of what he said, you're absolutely right."

In December 1970, the special subcommittee concluded there were no grounds to impeach Douglas and the possibility of congressional censure was not pursued.

The three Democrats on the subcommittee voted to accept the final report.

One Republican voted against it.

Another Republican abstained.

When it was all over, Chairman Celler said: "I am sure all fair-minded people, after studying the material in the final report, will agree there is no basis for impeachment of Justice Douglas."

Douglas resigned from the foundation in May of 1969, a week after Justice Abe Fortas was forced to resign from the Supreme Court following revelations he had accepted money from a foundation sponsored by a convicted stock swindler, Louis E. Wolfson.

Douglas, however, vowed to remain on the court.

[From the Dayton (Ohio) Journal Herald, June 13, 1972]

DOUGLAS' FRIEND HAS MOBSTER TIES

(By Andrew Alexander and Keith McKnight)

A close friend of U.S. Supreme Court Justice William O. Douglas has been connected for more than 20 years with the financial interests of internationally known mobster Meyer Lansky.

The "friend" is Albert B. Parvin, a wealthy Los Angeles financier with deep ties to organized crime figures other than Lansky.

Parvin in 1960 created the Albert Parvin Foundation, which Douglas headed during the 1960s.

The Journal Herald has obtained the confidential U.S. Justice Dept. report of an interview with an employe of one of Parvin's enterprises—Albert Parvin & Co.—which details some of the Parvin-Lansky connections.

Douglas' close relationship to Parvin through the foundation provided part of the basis for an unsuccessful impeachment attempt against the 73-year-old justice in 1970.

Federal agents, congressmen and congressional aides have charged privately that Parvin simply used the foundation and Douglas to provide a "legitimate" front for organized crime activities.

Douglas served the foundation—at Parvin's request—as director, president, and its only paid officer from its first directors meeting in February, 1961, until he resigned in May of 1969.

During that time Douglas collected over $100,000 through his $12,000-a-year salary. He also served on the foundation's finance committee from April of 1967 until his resignation two years later.

Through their work with the foundation, Parvin and Douglas became close friends and—according to a special Congressional Subcommittee report released in September of 1970—occasionally exchanged gifts.

And in late 1964 and early 1965, Parvin—as a favor—helped Douglas furnish his new home in Goose Prairie, Wash., by ordering more than $3,000 worth of furniture and draperies for Douglas through Albert Parvin & Co. Douglas paid for the items ordered.

It has never been conclusively established whether or not Douglas knew of Parvin's involvement with Lansky or that Parvin, for nearly 25 years, has maintained a constant interest in licensed gambling.

Douglas, through his Washington attorney David Ginsburg, refused to be interviewed by The Journal Herald.

Parvin has also failed to respond to a written request for an interview.

Attempts to reach Lansky, who is presently under indictment by federal grand juries in Las Vegas, New York and Miami, have failed. He has been living with his wife in Israel since July of 1970.

Lansky and three other persons are charged in Las Vegas with conspiring to conceal and distribute about $36 million in unreported income from the Flamingo Hotel and Casino in Las Vegas.

Last week, Lansky and another associate were indicted by a federal grand jury in Miami for conspiring to avoid paying taxes on money received from gamblers on junkets to George Raft's Colony Sporting Club in London.

Two days later, Lansky was again indicted by a federal grand jury at New York on charges of filing false tax returns in connection with the money he allegedly received from the gamblers.

One of Parvin's first business deals involving a Lansky-controlled enterprise resulted from Parvin's purchase of the posh Flamingo in the mid-1950s.

The Flamingo was constructed immediately following the end of World War II by a company called Nevada Projects Corp.

Lansky, whose personal fortune is esti-

mated at $100 million to $300 million, was not listed as a stockholder of record in the company, according to the files of the Nevada Gaming Control Board.

However, several federal agents and persons initially involved, all of whom asked not to be identified, have told The Journal Herald they are convinced Lasky maintained a "hidden" control through stockholders in the company.

And the Las Vegas federal grand jury indictment of Lansky last October describes him as "one of the original controlling interests" in the Flamingo.

Among other gangsters in the company was Lansky's life-long hoodlum friend, Benjamin "Bugsy" Siegel.

Siegel, who had grown up with Lansky as a co-leader of the notorious "Bugs and Meyer Mob," originated the idea of the Flamingo and first headed the operation.

On the night of June 20, 1947—with the Flamingo open less than a year—Siegel was murdered as he sat in the Beverly Hills home of his mistress, Virginia Hill.

Hank Messick, author of a detailed biography of Lansky and his underworld influence, claims it was Lansky who made the final decision that Siegel should be murdered after he learned Siegel planned to sell most of his interest in the Flamingo and retire with his mistress in another country.

One of those Lansky aides who allegedly knew about and condoned the Siegel assassination was Phoenix-based mobster Gus Greenbaum.

Greenbaum later took Siegel's place as head of the Flamingo.

On Dec. 3, 1958, more than a decade after Siegel's death, Greenbaum and his wife, were found in Phoenix with their throats cut. The murders were never solved.

According to an IRS memorandum; written in January of 1963, Parvin and a group of investors purchased the Flamingo from Greenbaum and the old Nevada Projects Corp. (renamed Flamingo Hotel, Inc.) in 1955.

Parvin purchased the Flamingo when the hotel and casino allegedly could not meet payments to a furnishing company Parvin controlled.

According to Louis Wiener Jr., a Las Vegas attorney and close friend to Siegel, Parvin had substantial interest in the Flamingo from the day it opened.

Wiener said Parvin's company was granted a contract to furnish the plush resort almost completely.

In purchasing the Flamingo, Parvin formed a company called Hotel Flamingo, Inc. and he owned at least 30 percent of the firm's stock.

Hotel Flamingo, Inc. records do not list Lansky as a stockholder.

And according to the report of an interview with Parvin conducted by the IRS in the early 1960's, published in the final report of the special subcommittee investigation of Douglas in 1970, Parvin stated that "Meyer Lansky was neither a stockholder nor associate" in Hotel Flamingo, Inc.

Federal agents, on the other hand, have told The Journal Herald they believe Lansky maintained his "hidden" financial interest in the Flamingo from its inception until at least 1967.

They contend he held this interest during the five-year period (1955–1960) that Parvin—at least for the record—controlled the resort.

The Flamingo was sold by Parvin to a group of Lansky's associates in 1960.

As reported yesterday, Parvin sold the Flamingo in 1960 for $10,465,000 to a group of Florida-based investors headed by hotelmen Morris Lansburgh and Sammy Cohen.

Both Cohen and Lansburgh have been identified by Justice Dept. agents as long-time Lansky associates and both were named as defendants with Lansky in the October federal grand jury indictment in Las Vegas.

Both men have failed to respond to written requests for interviews. A secretary, by telephone, said they would not be interviewed.

In addition, Parvin—on May 12, 1960—signed an agreement with Lansky awarding Lansky a $200,000 "finder's fee" in connection with the sale of the Flamingo to the Lansburgh-Cohen group.

The agreement states that "it has been solely through the information and advice supplied by Lansky" that the sale could be made.

It was also reported yesterday that almost all of Lansky's $200,000 was paid in quarterly payments to him from funds of the Albert Parvin Foundation between 1961 and 1967, while Douglas was president and a director of the foundation.

The foundation, through the donation by Parvin of a large amount of Flamingo stock in 1960 and early 1961, became the largest of 18 Flamingo stockholders.

When the hotel and casino was sold and it was decided to liquidate, the assets, a "custodian" or "trust" account was set up at the Bank of America in Beverly Hills to handle distribution of the proceeds of the liquidation to the 18 stockholders, including the foundation.

A high Justice Dept. source has confirmed for The Journal Herald that the payments to Lansky were drawn upon only the foundation's share of the custodian account.

Douglas has publicly denied any knowledge of the Parvin-Lansky agreement.

On June 9, 1970, staff members of the special Congressional Subcommittee investigating Douglas' conduct interviewed Parvin.

Parvin's' statements—like those of all persons interviewed by the subcommittee—were not taken under oath.

According to their report, Parvin said that Lansky "did not participate in the negotiations for the sale (of the Flamingo), Parvin said that the buyers of the Flamingo after the purchase price had been negotiated, directed that the $200,000 fee be added."

Whatever the reason for the $200,000 fee for finding his friends, the Oct. 22 indictment states that the government believes the sale of the Flamingo by Parvin helped pave the way for Lansky, Cohen and Lansburgh to conspire and "skim" millions of dollars of unreported proceeds from the hotel and casino.

About the time Parvin purchased the Flamingo in the mid-1950's, Lansky had already expanded his gambling enterprises to include control of a number of hotels and casinos in Cuba.

Lansky had gained special favors in Cuba through his close friendship with Fulgencio Batista, who had been re-elected Cuban president in 1952.

According to New York Times reporter Nicholas Gage, in his book "The Mafia is not an Equal Opportunity Employer," Batista's campaign received heavy financial backing from Lansky's crime syndicate.

Lansky quickly established a monopoly in the Cuban gambling industry by using Batista to pass a law that made gambling legal only in hotels worth at least $1 million. Subsequently, Lansky and his friends proceeded to build or gain control of the only hotels that would qualify.

To further solidify his position, he used Batista to realign Cuban immigration regulations so that casino pit bosses and other key workers would be classified as "valuable technicians," making it possible for them to stay longer than regular visas would allow.

Again, Parvin was hooked-up with the mob leader's hotels and casinos in Cuba, helping to build Lansky's gambling paradise.

According to statements made to The Journal Herald by Justice Dept. agents, IRS special agents, and long-time organized gambling figures who asked not to be identified, the Albert Parvin & Co.—which Parvin controlled—supplied the "fixtures" (furnishings, slot machines, etc.) for the Lansky-run Cuban hotels and casinos.

A confidential Justice Dept. report of an interview with a key employe of Albert Parvin & Co. supports this claim.

The interview was conducted Jan. 26, 1970, with Irving J. Marcus, comptroller for Albert Parvin & Co. for more than 10 years.

Marcus did not respond to a written Journal Herald request for an interview.

A copy of the interview with Marcus was supplied to the special congressional subcommittee investigating Douglas. However, the subcommittee did not make its contents public.

The Journal Herald obtained a copy of the interview from a source who was not connected with the Justice Dept.

The Justice Dept. interview with Marcus was held in the offices of Marcus' attorney Justin L. Goldner, in Beverly Hills, Calif.

At the time of the interview, Marcus was no longer with the Parvin firm, but has since been rehired.

According to the final report of the special Congressional Subcommittee investigating Douglas, Goldner has instructed Marcus not to be interviewed by anyone until the Justice Dept. furnishes Marcus with a copy of the report of the interview.

According to the interview report, there were numerous meetings held by officials of the Parvin firm and Lansky.

Marcus, who said he joined Albert Parvin & Co. on March 11, 1957, said his first association with persons "whom he knew were involved in organized crime" (according to the report) was when he met Lansky in that same year.

According to the report, Marcus confirms that Albert Parvin & Co. was doing work for Lansky in Cuba by "decorating the Havana Riviera," which was financially controlled by Lansky.

Marcus also said, according to the report, that he met Lansky throughout 1957 because he (Marcus)—the report says—"was an expert in export matters and slot machines and other furnishings had to be exported in accordance with federal procedures to Cuba."

The report claims Marcus said Albert Parvin & Co. had so many meetings with Lansky that "The Albert Parvin Company rented an apartment in Miami and most of the meetings occurred in that apartment."

It also says that some of the meetings were held with Lansky in a hotel suite which was rented by the company.

The interview report does not contain the locations of those apartments, nor does Marcus list the meeting dates.

The Parvin firm's interest in Lansky's Cuban operations quickly ended in 1959 when the country came under the control of Fidel Castro.

According to author Nicholas Gage in his book on organized crime, Lansky was so furious when Castro refused to allow his gambling operations to continue that he put up a $1 million bounty for Castro's murder. This reward was later withdrawn, but it caused more than slight concern for U.S. officials when Castro later visited New York and shunned elaborate security precautions taken on his behalf.

The Justice Dept. report of the Marcus interview does not deal with the Castro take over. Nor does it contain the topics or content of discussions held between Parvin Company officials at meetings with Lansky.

The report does, however, support the claim of many organized crime investigators that Parvin has for years operated as a "front" for Lansky-controlled businesses.

As one federal investigator said, the Lansky-Parvin ties are "just too deep" to be denied.

[From the Dayton (Ohio) Journal Herald, June 14, 1972]

HOW DID FOUNDATION GET CRIME-TIED STOCK?

(By Andrew Alexander and Keith McKnight)

"A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life should be beyond reproach."—Canon 4, Canons of Judicial Ethics.

The Albert Parvin Foundation—headed for nearly a decade by U.S. Supreme Court Justice William O. Douglas—held more than 31,000 shares of stock in a company with numerous ties to organized crime.

And despite th fact that the stock reached a top market value of nearly $2 million, those connected intimately with the financial affairs of the foundation seem not to know—or will not say—how the block got into its investment portfolio.

The stock was held in varying amounts from 1961 through 1969 in the Parvin-Dohrmann Co., (known until 1963 as Starrett Corp.) a Los Angeles based firm which specialized in furnishing and outfitting hotels and restaurants.

The company was sold in 1969 and now is called Recrion Corp.

Like Parvin-Dohrmann, Recrion is traded on the American Stock Exchange.

The Parvin-Dohrmann Co. was headed during most of that nine-year period by Los Angeles financier Albert B. Parvin, who created the Albert Parvin Foundation in 1960 and persuaded Douglas to serve as an incorporator, director and its president.

Throughout the 1960's the foundation maintained at several well-known American universities fellowship programs for students from underdeveloped countries.

The results of a lengthy Journal Herald investigation would seem to support the claims made privately by Douglas' critics that it was used simply as an "honest" front for Parvin and those associated with the Parvin-Dohrmann Co., in their dealings with underworld figures.

Those findings include:

The claim by the comptroller of a Parvin-Dohrmann subsidary—in a confidential Justice Dept. report of an interview, a copy of which has been obtained by The Journal Herald that certain employes of the subsidiary were forced to donate Parvin-Dohrmann stock to the foundation;

The Parvin-Dohrmann Co., while the foundation held stock in the firm, employed two well-known organized crime figures in $100,000-a-year positions to manage the company's Las Vegas hotel and casino operations;

A vice president of the company, who also served with Douglas as a director of the foundation, has been under continuing scrutiny by organized crime investigators;

The Parvin-Dohrmann Co. and some of its officers—primarily Parvin—have been the subject of almost continuous federal investigation and litigation for nearly a decade.

Through his Washington attorney, David Ginsburg, Justice Douglas declined to be interviewed by The Journal Herald.

Douglas has denied knowledge of any connection between Parvin, the Parvin-Dohrmann Co., and the underworld.

And he has held that his work with the foundation in no way interfered with his work on the high court.

His critics, including House minority leader Gerald R. Ford and other congressmen, have argued that his moonlighting activities with the foundation have tainted the image of the Supreme Court and that he has not maintained the "good behavior" expected of sitting justices.

They contend there is no excuse for Douglas' professed ignorance of the many links between his friend, Parvin, the Parvin-Dohrmann Co., and organized crime.

They point out that Douglas collected more than $100,000 over a nine-year period as the only paid officer of the foundation.

Further, they point out that Douglas should have been aware of the foundation's financial affairs—not only as president, but also through his service as chairman of the foundation finance committee which he served from April 1967, until his resignation in May, 1969.

Douglas is a former chairman of the Securities and Exchange Commission.

Despite the fact that the total of more than 31,000 shares of Parvin-Dohrmann Co. stock represented the largest single holding in the foundation's investment portfolio in the 1960s, how it got there is a mystery.

Those close to the foundation's financial affairs who would allow themselves to be interviewed said they didn't know.

And those others who presumably would know wouldn't talk.

Parvin failed to respond to a written request for an interview.

Harvey L. Silbert, who served the dual role of Parvin-Dohrmann Co. director and vice president, as well as treasurer and director of the foundation, would not grant a telephone interview. He maintains a law practice in Beverly Hills, Calif.

Foundation accountant Alex Bellows, who now heads a Los Angeles accounting firm, expressed intimate knowledge of foundation finances, but said he didn't know who donated the Parvin-Dohrmann stock.

Former New York federal district Judge Simon H. Rifkind, who represented Douglas during a congressional impeachment attempt in 1970, also could not explain who gave the stock.

He said he was under the impression Parvin had provided all the foundation's financial resources, including the stock.

While the source of the stock is still a mystery, correspondence made public following a special congressional probe into possible grounds for impeachment of Douglas indicates that at least one foundation director tried to determine the generous benefactor of the stock.

He is Harry S. Ashmore, the Pulitzer prize-winning journalist, and he wrote to Silbert in December of 1969—months after Douglas had resigned—and asked "when the Foundation acquired by gift from (Albert) Parvin shares in the Parvin-Dohrmann Company."

An associate of Silbert's law firm responded several days later:

"Mr. Parvin has never donated to the Foundation shares of stock in the Parvin Dohrmann Company. Those shares which the Foundation did acquire were donated by persons other than Mr. Parvin."

But the associate did not name those "other" persons.

A year after Ashmore's letter, following what was billed as an extensive investigation of Douglas and the foundation by the special congressional subcommittee, there was no public answer as to who gave the stock.

Nowhere in the subcommittee's final 924-page report does it specify who donated the shares.

A Confidential report of a Justice Dept. interview obtained by The Journal Herald is pertinent.

The interview was conducted Jan. 26, 1970, with Irving J. Marcus, comptroller for Albert Parvin & Co. for more than 10 years. Albert Parvin & Co. was a subsidiary of Parvin Dohrmann Co.

Marcus failed to respond to a written request by The Journal Herald for an interview.

The Justice Dept. interview was held in the Beverly Hills offices of Marcus' attorney, Justin L. Goldner.

At the time, Marcus had left the company but since has been rehired.

Marcus reportedly recalled the merger in the early 1960s of Albert Parvin & Co. with the Starrett Corp.

According to the confidential report of the interview, Marcus recalled that certain employes of Albert Parvin & Co. were allowed to maintain a "minimum amount of stock" in the company.

However, he reportedly said, when the merger took place, these minority stockholders then automatically acquired stock in the new company—the Parvin-Dohrmann Co.

Marcus, according to the report, recalled "there was a certain amount of grumbling at the time" by several of these minority stockholders because after they received their stock in the new company "to which they were entitled, they were forced to give some to the Parvin Foundation."

Marcus did not expand upon his allegation, and the confidential report does not specify who "forced" the minority stockholders to make contributions, or why.

One possible reason the origin of the stock has remained a mystery is that from 1961 until April, 1967, the foundation's investment portfolio was handled only by Parvin and by Silbert, who assisted him for several years as foundation treasurer.

Together they operated virtually unchecked by foundation directors and Douglas, who was president during the entire period.

Parvin and Silbert—and presumably foundation accountant Bellows—were the only ones who knew who gave the stock.

In late 1966, when it became known to Douglas and the other directors that the Internal Revenue Service was investigating Parvin and his many financial interests—including the foundation—outside legal counsel was hired.

The counsel immediately recommended that steps be taken to eliminate Parvin's control over foundation financial matters.

In April, 1967, Douglas and another director were elected to what had previously been a one-man finance committee.

Yet even after the formation of this new finance committee—which Douglas subsequently served as chairman—the question of who gave the stock was apparently never pursued.

Regardless, the foundation—by means of its Parvin-Dohrmann investment—maintained a large interest in a company with connections to organized crime at the highest levels.

Many of these connections were through the purchase by Parvin-Dohrmann of three Las Vegas hotels and gambling casinos. They include the Fremont (in 1969), the Aladdin (in 1968), and the Stardust (in 1969).

For example, the Parvin-Dohrmann Co. in 1966 employed two well-known organized crime figures to $100,000-a-year positions running the Fremont operation.

The men are Edward Levinson and Edward Torres, and both were awarded five-year contracts in connection with the Fremont acquisition.

Levinson gained national attention in 1964 when he invoked the 5th Amendment privilege against possible self incrimination before the Senate Rules Committee which was looking into the business dealings of convicted former Democratic Senate secretary Bobby Baker.

Levinson has for years been connected with gambling enterprises controlled by international mobster Meyer Lansky.

These have included Lansky-controlled operations in Newport, Ky.; hotel and casino operations in Las Vegas; as well as Lansky's Havana (Cuba) Riviera hotel and casino which reportedly showed large profits until Lansky lost control of Cuban gambling concessions when Fidel Castro took control of the country in 1959.

Levinson, along with Torres and two other defendants, was charged in a 1967 Las Vegas federal grand jury indictment with con-

spiracy, filing false tax returns and aiding and assisting in submitting a false tax return for the Fremont Hotel.

Levinson eventually pleaded no contest and was fined $5,000 on one of the charges.

The government dropped the other charges against Levinson and dropped all charges against Torres and the other defendants.

Federal agents, who asked not to be identified, have told The Journal Herald Torres is also considered to be a significant contributor to organized crime. He held 63,000 shares of stock in Parvin-Dohrmann Co. at the same time the foundation also held its interest in the firm.

According to Securities and Exchange Commission records, Torres was retained by Parvin-Dohrmann to manage the Fremont and Aladdin hotels and casinos and later was hired as a consultant for the company in its management of the Stardust operation.

As a sidelight, the Justice Dept. confidential report of the interview with Irving J. Marcus states that Albert Parvin & Co. decorated Torres' Home.

Marcus, who said he had extensive dealings with both Levinson and Torres, mentioned in the interview "how extremely difficult it had been to get Torres to pay for the work done in his home" by the Parvin company.

Douglas has denied ever meeting or dealing with Levinson or Torres, and they have claimed the same—although all three were at the same time connected with the financial interests of the same company.

But while Douglas has denied dealings with these two organized crime notables, his association for more than seven years with a man of continuing interest to organized crime investigators is documented.

He is Harvey L. Silbert—the foundation treasurer and a fellow director.

Silbert, in addition to his position as a Parvin-Dohrmann vice president and director, is closely tied to Torres in another business interest.

Silbert is chairman of the board and a major stockholder in the Las Vegas Riviera hotel and casino. Torres, also a large stockholder, is president of the Riviera.

Silbert and Douglas became acquainted through Parvin when the trio in 1963 traveled to the Dominican Republic for the reported purpose of checking on a foundation literacy project.

Parvin—for the period Douglas headed his foundation—has been under almost constant investigation by federal agencies.

The largest of these, known as "Operation Complex," was conducted by the IRS in the mid 1960s.

The IRS probe was centered on the financial interests of Parvin and the Parvin-Dohrmann Co., which included the Parvin Foundation through its stock interest in Parvin-Dohrmann.

The investigation reportedly reached into eight states and the District of Columbia, and involved 41 IRS agents, who, according to the service, examined at least 200 individual tax returns and about 300,000 documents.

"Operation complex" was concluded in April, 1967, with the recommendation (according to the confidenial IRS report prepared at the time and made public in 1970 by the special subcommittee investigating Douglas) "that this case be closed in the files of the Intelligence Division and that Mr. Parvin's name be deleted from the Organized Crime Drive List."

While no criminal action was pursued, the IRS report indicates that a "civil adjustment" was sought with Parvin for the years 1961, 1962 and 1963.

The confidential Justice Dept. report of the Marcus interview indicates that Parvin was, at the time of the interview, once again under scrutiny by the IRS.

Much of the report deals with the manner in which Parvin and his associate, Harry A. Goldman, handled travel and expense vouchers.

Goldman served as chairman of the board of Parvin-Dohrmann Co., and president of Albert Parvin & Co., of which Marcus was comptroller. Goldman was also the subject of close scrutiny in "Operation Complex."

Goldman failed to respond to a written request by The Journal Herald for an interview.

The Marcus report reads:

"Up until 1962 very meager records (of travel and expenses for Albert Parvin & Co.) were kept. Although Parvin and Goldman each had credit cards, it was their normal practice to pay the airline tickets and entertainment expenses with cash. Approximately once a month they would bring in a slip of paper to (Marcus) with an amount listed on it and ask him to draw a check to him which either they or their secretary would cash. This left no trail for (Marcus) or anyone else to follow as to where they had been or whom they had entertained."

Marcus said he knew "no specific instance in which Justice Douglas' travel was paid out of company funds or by Parvin."

The report states that the practice of submitting un-itemized expense accounts was restricted in 1962 when the IRS "placed a maximum $25 per day limitation on expenditures without itemization."

The report also states that the IRS, in the course of an investigation of Parvin, had uncovered "large sums involving unexplained travel and expenses in the Dohrmann Company," another Parvin-Dohrmann subsidiary controlled by Parvin.

Parvin in recent years has been involved in a number of major scandals.

Prominent among them was a Securities and Exchange Commission suit filed in federal court in the southern district of New York in October, 1969. The civil suit was against Parvin, The Parvin-Dohrmann Co., and 16 other defendants.

It charged the defendants with numerous violations of securities regulations in the sale of Parvin-Dohrmann stock, and centered on the fact that Parvin-Dohrmann stock increased in market price nearly 300 percent in less than a year.

Many of the alleged securities law violations involved transactions leading up to the sale of Parvin-Dohrmann in January of 1969.

Also named as co-defendants with Parvin were Edward Torres and convicted congressional influence peddler Nathan Voloshen, who died last August. Voloshen, a Washington lobbyist, pleaded guilty in 1970 to using the office of the former House Speaker John W. McCormack to gain favors for Voloshen's clients, and then lying about it to a grand jury. McCormack testified he knew nothing of Voloshen's activities.

SEC officials said they have reached settlements with all of the defendants except Parvin, but refused to discuss the issues on which the two parties are still negotiating.

The SEC suit against Parvin and the others has produced much less excitement than another case involving another Supreme Court justice, another foundation, and another wealthy financier.

In October of 1966, Parvin was named a co-conspirator—but never tried—in an SEC stock fraud case which sent Florida financier Louis E. Wolfson to prison for violation of securities law in selling unregistered stock.

Following Wolfson's conviction, it was revealed that then-Supreme Court Justice Abe Fortas had in 1966 accepted a $20,000 fee from the Wolfson Family Foundation for serving as an advisor.

Fortas reportedly kept the money for 11 months and returned it after Wolfson was indicted.

Parvin, according to a 1969 New York Times report, said he was a long-time acquaintance of Wolfson.

Douglas resigned from the Parvin Foundation a week after Fortas resigned his high court seat on May 14, 1969, after the fee was revealed.

Douglas cited poor health and an increasing court workload as reasons for his resignation.

A foundation statement released at the time said he had planned to step down for more than a month.

There were differences between the two justices' relationships to their respective foundations. Wolfson was convicted and went to jail for nearly a year, while Parvin has only been named in civil and criminal suits but has not been a central figure.

Fortas' $20,000 fee was returned after Wolfson was indicted and before he was convicted, while Douglas' $100,000 income from the Parvin Foundation was salary and has not been returned.

Correspondence from Douglas made public following the House investigation in 1970 suggests that Douglas was wary of the foundation's interest—through Parvin-Dohrmann—in Las Vegas gambling operations, but that he made no attempt to force the foundation to immediately dispose of the stock.

Nor do foundation minutes or correspondence show that Douglas ever attempted to determine the possibility of organized crime connections by the Parvin-Dohrmann Co., which would automatically implicate the head of the firm, Albert Parvin.

Government documents indicate that Douglas knew of the Las Vegas interests as early as 1966 when federal agents informed him of the ties between Parvin and organized gambling operations through the Parvin-Dohrmann Co.

Douglas, however, continued to head the foundation, and subsequently became chairman of its finance committee, while Parvin-Dohrmann went on to acquire two additional hotels and gambling casinos.

Douglas' failure to determine adequately the financial interests of the Parvin-Dohrmann Co. is viewed by his critics, including U.S. Rep. Joe D. Waggonner Jr. of Louisiana and U.S. Rep. H. R. Gross of Iowa, as an oversight unbecoming a justice of the Supreme Court.

And the congressmen have charged that his connections also have tainted the image of the Supreme Court.

IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF NEVADA

(United States of America, Plaintiff versus Meyer Lansky, Samuel Cohen, Morris Lansburgh, Jerry W. Gordon, Samuel Ziegman, Steve Delmont, and Harry Goldberg, Defendants; Criminal No. 2408)

COUNT I

The Grand Jury charges:

1. That commencing prior to May 31, 1960, and continuing up to, and including the date of this indictment in the Judicial District of Nevada, and elsewhere, MEYER LANSKY, MORRIS LANSBURGH, SAMUEL COHEN and JERRY W. GORDON, hereinafter referred to as defendants, and Rubin Zerlin, Lou Poller, Chester Simms (now deceased), Samuel Belkin, co-conspirators but not defendants herein, and divers other persons to the grand jury unknown, all of which persons, named and unknown, other than the defendants themselves, will hereinafter be referred to as co-conspirators, did unlawfully, willfully and knowingly combine, conspire, confederate and agree together with each other and divers other persons to the grand jury unknown:

To travel in and use facilities in interstate and foreign commerce between the Southern District of Florida, Nevada, New York, Switzerland and elsewhere with the intent to establish, promote, manage and carry on and facilitate the establishment, promotion, management and carrying on of an unlawful activity and to distribute the proceeds of the operation and sale of said unlawful activity, that is a business enterprise involving gambling in violation of the laws of Nevada, specifically Nevada Revised Statutes 463.160,

463.200, 463.300, 463.360, 463.370 and 463.400 and their predecessor statutes, and thereafter to perform acts of establishment, promotion, management and carrying on and distribution of proceeds from said unlawful activity in violation of Section 1952, Title 18 United States Code.

2. At all times mentioned in this indictment and specifically during the years 1960 through August of 1967, except as otherwise indicated herein:

A. *Samuel Cohen*, a resident of Miami Beach, Florida, was the President of the Flamingo Company and owned 48.8 percent of its stock.

B. *Morris Lansburgh*, a resident of Miami Beach, Florida, was the Secretary-Treasurer of the Flamingo Company and owned 11.3 percent of the corporate stock.

C. *Jerry W. Gordon*, a resident of Las Vegas, Nevada, was the Vice-President of the Flamingo Company and had an undisclosed ownership of .8 percent of the corporate stock.

D. *Samuel Belkin*, a resident of Las Vegas, Nevada, was a shift boss and assistant casino manager of the Flamingo Hotel and Casino.

E. *Chester Simms* (now deceased), was a resident of Las Vegas, Nevada, and was the casino manager of the Flamingo Hotel and Casino and owned 4.75 percent of the Flamingo Company stock.

F. *Rudin Zerlin*, a resident of Miami Beach, Florida, was a partner with SAMUEL COHEN in many business ventures.

G. *Lou Poller*, a resident of Miami Beach, Florida, was a financier and business man.

H. *Flamingo Company*, was a Nevada corporation which owned and operated the Flamingo Hotel and Casino, located in Las Vegas, Nevada, from May 31, 1960, to August 17, 1967.

I. *Meyer Lansky*, a resident of Miami Beach, Florida, was a stockholder of record in the Nevada Projects Corporation which constructed the Flamingo Hotel in 1947 and then sold it to the Flamingo Hotel, Inc. on August 16, 1947.

3. The grand jury further charges that said unlawful conspiracy, combination, confederation and agreement was to be accomplished by the means and methods and in the manner following:

A. Defendant Meyer Lansky, one of the original controlling interests in the Flamingo Hotel and Casino, Clark County, Nevada would cause defendants Sam Cohen and Morris Lansburgh to purchase the Flamingo from Hotel Flamingo, Inc., and Albert Parvin in or about May 1960, and thereafter caused payments totaling $200,000 to be made from the proceeds of the Flamingo operation during the continuation of the conspiracy through Hotel Flamingo, Inc., and the Albert Parvin Foundation to Meyer Lansky.

B. Defendants Samuel Cohen, Morris Lansburgh and other named and unknown co-conspirators would apply for and receive gambling licenses and renewals thereof from the State of Nevada for operation of the Flamingo Hotel and Casino and would conceal from state authorities the interests and right to receive proceeds from the Flamingo of Meyer Lansky and others.

C. Defendants Samuel Cohen, Morris Lansburgh, and Jerry Gordon and unindicated co-conspirators Sam Belkin, Chester Simms, and others unknown to the grand jury would operate the gambling casino of the Flamingo and conceal from the Nevada gambling authorities and the United States Treasury Department the true casino receipts by understating approximately $4,500,000 or more of casino income yearly.

D. During the course of the conspiracy the aforesaid defendants would invite large groups of people (hereinafter referred to as junketeers) from various parts of the country to the Flamingo Hotel and Casino, Las Vegas, Nevada (hereinafter called the Casino), and would defray all expenses for transportation, room, food and beverage for periods up to four days.

E. During the course of the conspiracy the aforesaid defendants would extend substantial credit to the junketeers at the Casino gaming tables, and the junketeers would sign markers or IOU'S indicating the amount of the credit extended.

F. During the course of the conspiracy the aforesaid defendants would cause some of the junketeers IOU'S to be unrecorded on the Casino records and would cause the unrecorded IOU'S to be forwarded to junket collectors for collection.

G. During the course of the conspiracy the aforesaid defendants would cause currency received in payment of the unrecorded IOU'S to be accumulated in the New York office and periodically delivered to the Casino in Las Vegas, Nevada.

H. During the course of the conspiracy the aforesaid defendants would cause the Casino cashiers to omit the issuance of credits slips for the payments received in currency for the unrecorded IOU'S and would thereby cause an understatement of the Casino's income.

I. During the course of the conspiracy the aforesaid defendants would substantially underreport the amount of currency on the daily casino game worksheets and thereby causing a substantial understatement of the taxable income and tax liability of the Flamingo Company, Inc.

J. During the course of the conspiracy the aforesaid defendants would cause the unreported income of the Casino to be distributed among the owners of the Flamingo Company corporate stock and the key personnel of the Casino.

K. Defendants Lansburgh and Cohen and unindicted co-conspirators Rubin Zerlin and Lou Poller would negotiate the sale of the Flamingo on behalf of the named defendants and conspirators and other unknown co-conspirators and in order to secure a higher price would reveal that approximately two million dollars yearly in unreported proceeds from the Flamingo would be available for distribution after the defendant Lansky had been paid his portion of the sale price in cash.

Overt acts

In pursuance of the aforesaid conspiracy and to effect the objects thereof, the following overt acts were done and performed by the defendants as indicated below:

1. On or about September 7, 1960, Meyer Lansky executed an agreement requiring Hotel Flamingo, Inc., to pay Lansky $200,000.

2. At quarterly intervals beginning on or about January 2, 1961, and continuing through 1966, Meyer Lansky received payments in Hollywood, Florida, of $6,250 per quarter from Flamingo Company proceeds through the Albert Parvin Foundation.

3. During the months of January and February, 1965, in Dade County, Florida, and Clark County, Nevada, Morris Lansburgh, Sam Cohen, Rubin Zerlin and Lou Poller engaged in negotiations with a potential purchaser of the Flamingo Hotel and Casino.

4. On or about March 29, 1965, Morris Lansburgh sent correspondence from Clark County, Nevada, to the Flamingo New York office concerning unrecorded gambling debts owed to the Flamingo.

5. On or about December 30, 1966, and March 31, June 30 and September 8, 1967, Meyer Lansky received payments in Hollywood, Florida, totaling $50,000 from Flamingo Company proceeds through the Albert Parvin Foundation.

6. At approximately monthly intervals during the period from May 1960, to September 1967, the exact dates being to the grand jury unknown, Morris Lansburgh, Chester Simms and unknown co-conspirators received large amounts of currency from employees of the Flamingo's New York office.

7. On various dates during the continuation of the conspiracy, Sam Cohen, Morris Lansburgh, Rubin Zerlin, Lou Poller and unknown co-conspirators caused the deposit of large amounts of currency to the account of Exchange and Investment Bank of Switzerland at Miami National Bank, Miami, Florida and the transmittal to Switzerland of proceeds of the Flamingo operations.

In violation of Title 18, United States Code, Section 371.

COUNT II

The grand jury further charges:

1. That on or about May 31, 1960, the exact date being to the grand jury unknown, and continuously thereafter, up to and including the date of December 2, 1968, in the Judicial District of Nevada, and elsewhere, Morris Lansburgh, Samuel Cohen, Jerry W. Gordon, Samuel Ziegman, Steve Delmont and Harry Goldberg, hereinafter referred to as defendants, and Chester Simms (now deceased), Samuel Belkin, Bud Banner, a/k/a Sam Trachberg, Arthur Newman, and Bernard Cohen, co-conspirators but not defendants herein, and divers other persons to the grand jury unknown, all of which persons, named and unknown, other than the defendants themselves, will hereinafter be referred to as co-conspirators, did unlawfully, wilfully, and knowingly combine, conspire, confederate and agree together with each other and divers other persons to the grand jury unknown:

A. To defraud the United States by impeding, impairing, obstructing and defeating the lawful governmental functions of the Internal Revenue Service of the Treasury Department of the United States in the ascertainment, computation, assessment, and collection of the revenue, to wit: income taxes; and

B. To wilfully attempt to evade and defeat a large part of the income taxes to be due and owing to the United States of America by the Flamingo Company for the fiscal years ending March 31, 1966, March 31, 1967, and March 31, 1968.

2. At all times mentioned in this indictment, and specifically during the years 1960 through August 1967, except as other wise mentioned herein:

A. Steve Delmont, a resident of Las Vegas, Nevada, was an employee of the Flamingo Hotel and Casino.

B. Harry Goldberg, was a resident of Las Vegas, Nevada, and employee of the Flamingo Hotel and Casino.

C. Samuel Ziegman, was a resident of Las Vegas, Nevada and a stockholder of the Flamingo Company, Inc.

D. Bud Banner, a/k/a Sam Trachberg, a resident of Las Vegas, Nevada, was a shift boss of the Flamingo Hotel and Casino.

E. Arthur Newman, a resident of Las Vegas, Nevada, was a floorman of the Flamingo Hotel and Casino.

F. Bernard Cohen, a resident of Fort Lee, New Jersey, was the manager of the New York office of the Flamingo Hotel and Casino.

3. The grand jury further charges that said unlawful conspiracy, combination, confederation and agreement was to be accomplished by the means and methods and in the manner following:

A. During the course of the conspiracy the aforesaid defendants would invite large groups of people (hereinafter referred to as junketeers) from various parts of the country to the Flamingo Hotel and Casino, Las Vegas, Nevada (hereinafter called the Casino), and would defray all expenses for transportation, room, food and beverage for periods up to four days.

B. During the course of the conspiracy the aforesaid defendants would extend substantial credit to the junketeers at the Casino gaming tables, and the junketeers would sign markers or IOU's indicating the amount of the credit extended.

C. During the course of the conspiracy the aforesaid defendants would cause some of the junketeers IOU's to be unrecorded on the Casino records and would cause the unrecorded IOU's to be forwarded to junket collectors for collection.

D. During the course of the conspiracy the aforesaid defendants would cause currency received in payment of the unrecorded IOU's to be accumulated in the New York office and periodically delivered to the Casino in Las Vegas, Nevada.

E. During the course of the conspiracy the aforesaid defendants would cause the Casino cashiers to omit the issuance of credit slips for the payments received in currency for the unrecorded IOU's and would thereby cause an understatement of the Casino's income.

F. During the course of the conspiracy the aforesaid defendants would substantially underreport the amount of currency on the daily casino game worksheets and thereby causing a substantial understatement of the taxable income and tax liability of the Flamingo Company, Inc.

G. During the course of the conspiracy the aforesaid defendants would cause the unreported income of the Casino to be distributed among the owners of the Flamingo Company corporate stock and the key personnel of the Casino.

Overt acts

In pursuance of the aforesaid conspiracy and to effect the objects thereof, the following overt acts were done and performed by the defendants as indicated below:

(1) At various times during the course of the conspiracy, the exact dates being to the grand jury unknown, Morris Lansburgh, Chester Simms, and unknown co-conspirators received large amounts of currency from employees of the Casino's New York Office.

(2) Between March 31, 1966, and June 13, 1966, the exact dates being unknown to the grand jury, the aforesaid defendants caused the United States Corporation Income Tax Return of the Flamingo Company for the fiscal year of 1966 to be prepared in Los Angeles, California.

(3) Between March 31, 1967, and June 13, 1967, the exact dates being unknown to the grand jury, the aforesaid defendants caused the United States Corporation Income Tax Return of the Flamingo Company for the fiscal year 1967 to be prepared in Los Angeles, California.

(4) Between March 31, 1968, and December 2, 1968, the exact dates being unknown to the grand jury, the aforesaid defendants caused the United States Corporation Income Tax Return of the Flamingo Company for the fiscal year 1968 to be prepared in Los Angeles, California.

(5) On or about June 13, 1966, Jerry Gordon signed the United States Corporation Income Tax Return of the Flamingo Company for the fiscal year ending March 31, 1966.

(6) On or about June 13, 1967, Jerry Gordon signed the United States Corporation Income Tax Return of the Flamingo Company for the fiscal year ending March 31, 1967.

(7) On or about December 2, 1968, Morris Lansburgh signed the United States Corporation Income Tax Return of the Flamingo Company for the fiscal year ending March 31, 1968, in Los Angeles, California.

(8) On or about June 14, 1966, the United States Corporation Income Tax Return of the Flamingo Company, for the fiscal year 1966 was filed and caused to be filed with the District Director, Internal Revenue Service, Reno, Nevada.

(9) On or about June 15, 1967, the United States Corporation Income Tax Return of the Flamingo Company, for the fiscal year 1967 was filed and caused to be filed with the District Director, Internal Revenue Service, Reno, Nevada.

(10) On or about December 3, 1968, the United States Corporation Income Tax Return of the Flamingo Company, for the fiscal year 1968 was filed and caused to be filed with the District Director, Internal Revenue Service, Reno, Nevada.

In violation of Title 18, United States Code, Section 371.

COUNT III

The grand jury further charges:

That on or about the thirteenth day of June, 1966, in the Judicial District of Nevada, Samuel Cohen and Morris Lansburgh, residents of Miami Beach, Florida, and Jerry Gordon, a resident of Las Vegas, Nevada, hereinafter called the defendants, did knowingly aid and assist in, and counsel, procure, and advise the preparation and presentation to the District Director of Internal Revenue for the Internal Revenue District of Nevada at Reno, Nevada, of a United States Corporation Income Tax Return of the Flamingo Company for the fiscal year 1966, which was false and fraudulent as to be a material matter in that it represented that the gross receipts or gross sales were $17,080,017.00, whereas as the said defendants then and there well knew and believed the gross receipts or gross sales were $21,659,517.00.

In violation of Section 7206(2), Internal Revenue Code; 26 U.S.C., Section 7206(2).

COUNT IV

The grand jury further charges:

That on or about the thirteenth day of June 1967, in the Judicial District of Nevada, Samuel Cohen, and Morris Lansburgh, residents of Miami Beach, Florida, and Jerry Gordon, a resident of Las Vegas, Nevada, hereinafter called the defendants, did knowingly aid and assist in, and counsel, procure, and advise the preparation and presentation to the District Director of Internal Revenue for the Internal Revenue District of Nevada at Reno, Nevada, of a United States Corporation Income Tax Return of the Flamingo Company for the fiscal year 1967 which was false and fraudulent as to a material matter in that it represented that the gross receipts or gross sales were $16,891.00, whereas, as the said defendants then and there well knew and believed the gross receipts or gross sales were $21,751,878.00

In violation of Section 7206(2), Internal Revenue Code; 26 U.S.C., Section 7206(2).

COUNT V

The grand jury further charges:

That on or about the thirteenth day of June 1968, in the Judicial District of Nevada, Samuel Cohen and Morris Lansburgh, residents of Miami Beach, Florida, and Jerry Gordon, a resident of Las Vegas, Nevada, hereinafter called the defendants, did knowingly aid and assist in, and counsel, procure, and advise the preparation and presentation to the District Director of Internal Revenue for the Internal Revenue District of Nevada at Reno, Nevada, of a United States Corporation Income Tax Return of the Flamingo Company for the fiscal year 1968, which was false and fraudulent as to a material matter in that it represented that the gross receipts or gross sales were $7,087,411.00, whereas, as the said defendants then and there well knew and believed the gross receipts or gross sales were $8,164,861.00.

In violation of Section 7206(2), Internal Revenue Code; 26 U.S.C., Section 7206(2).

Mr. WAGGONNER. Finally, I shall caucus with my colleagues on the question of this serious breach of judicial ethics and consider the feasibility of authoring a resolution calling for the formation of a new special select committee of the House to explore all of the disclosures made herein.

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

Mr. WAGGONNER. I am happy to yield to my friend, the gentleman from New Hampshire.

Mr. WYMAN. In the earlier portions of the gentleman's remarks on this special order, the gentleman referred to evidence of the fact that the subcommittee investigating the question of the possibility of impeachment of Mr. Justice Douglas reported to this body in a formal report that there was no evidence to justify the charges. He has also repeatedly stated that no witnesses were subpenaed.

Does the gentleman mean to say that the subcommittee investigating these rather serious charges never took any testimony under oath and subject to the penalty of perjury?

Mr. WAGGONNER. I am saying to this body that the subcommittee charged with the responsibility of this investigation not only did not subpena any of the suggested witnesses, but they failed at any point or any time to ever take a single word of testimony under oath, nor did they receive testimony from any individuals in writing which could, had their signatures been attached to that testimony, have perjured themselves.

Mr. WYMAN. If the gentleman will yield further, if they took no testimony under oath, then no witness was subject to cross-examination, is that correct?

Mr. WAGGONNER. The gentleman is exactly right.

Mr. WYMAN. What did they do? How did they conduct the investigation?

Mr. WAGGONNER. The gentleman is aware of the fact that certain members of the staff made a rather hasty trip into the Middle West and on to California in a matter of just days; came back and said that there was nothing to worry about, that they had conducted an investigation of all the people involved and all their files, but they spent most of their time traveling.

Mr. WYMAN. Did any member of the subcommittee, to the gentleman's knowledge, ever ask any questions of the witnesses?

Mr. WAGGONNER. To my knowledge, no member of the subcommittee ever asked anybody a pointed question.

Mr. WYMAN. Were any subpenas issued, whether duces tecum or otherwise?

Mr. WAGGONNER. No subpenas were issued. This was, as I said then, a whitewash job done primarily by the staff of the subcommittee.

Mr. WYMAN. Will the gentleman permit, was Meyer Lansky ever questioned by the subcommittee going into Mr. Justice Douglas?

Mr. WAGGONNER. To my knowledge Mr. Meyer Lansky has never been questioned by anybody, including a member of the subcommittee or the subcommittee staff with regard to this matter.

In fact, through his counsel he has been invited by the Federal Government and refused an invitation; he is no longer in this country. The Federal Government has offered to pay his travel back to this country, but he will not come.

He has been ordered by the Prime Minister in Israel expelled from that country, and that expulsion order is under appeal to the highest court of Israel.

Mr. WYMAN. If the gentleman will yield further, the subcommittee investigating these charges, of course, central to this investigation was Mr. Justice Douglas. Did any member of the com-

mittee at any time ever ask Mr. Justice Douglas any questions about these charges?

Mr. WAGGONNER. To my knowledge nobody, neither a member of the committee nor a staff member ever had any direct communication through the mail or in person, verbally, with Mr. Justice Douglas. All communications involving Mr. Justice Douglas were handled by his attorney, Mr. Rifkin.

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

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

Mr. WYMAN. Mr. Speaker, when the gentleman says there is no record of the subpena, does the gentleman know whether or not the subcommittee examined the Internal Revenue records of the principal parties under investigaton for the periods involved or the tax returns?

Mr. WAGGONNER. I do not know or cannot speak with total assurance as to whether they examined the Internal Revenue records or not, but I have every reason to believe that they did not.

Mr. WYMAN. Of course some of the financial transactions involved in the indictment to which the gentleman from Louisiana makes reference are materially influenced in their adequacy by the moneys that are shown, as to whether they were reported as income or as deductions or otherwise treated on their tax returns for the Flamingo Hotel and the Albert Parvin Foundation and all the rest.

Mr. WAGGONNER. I will say to the gentleman I am convinced had the corps' suggestion been followed it would have uncovered the $200,000 payoff by the Albert Parvin Foundation while Justice Douglas served as president and chairman of its finance committee.

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

Mr. WAGGONNER. I am happy to yield to the gentleman from New Hampshire.

Mr. WYMAN. What do these articles develop that was neither known nor available to the Celler subcommittee investigating the so-called impeachment question?

Mr. WAGGONNER. First of all, they developed that the Albert Parvin Foundation, while Mr. Justice Douglas served on the U.S. Supreme Court, and more another hat as president of the Albert Parvin Foundation, paid a finder's fee to Meyer Lansky of $200,000 illegally from the foundation funds, and that Mr. Justice Douglas had to have some knowledge of this, because the last two installments of these payments of this finder's fee were made after an investigation by IRS was begun in 1966 and after Mr. Justice Douglas became chairman of the finance committee.

Mr. WYMAN. The gentleman said in his remarks earlier that Mr. Justice Douglas made some payments. Did he make the payments, or did somebody else connected with the foundation make the payments, according to these articles?

Mr. WAGGONNER. The foundation made the payments, but Mr. Justice Douglas was chairman of the finance committee. Surely, if he is capable of serving on the U.S. Supreme Court he had to know, as chairman of the finance committee, what these payments were being made for.

Mr. WYMAN. Why were the payments illegal, or unlawful in any way?

Mr. WAGGONNER. Of course, this was reported to be a finder's fee paid by the foundation, which had no interest in this casino, none whatever, to Meyer Lansky for his role in the bankruptcy proceedings, wherein they participated in the purchase of this hotel.

Mr. WYMAN. What would have been the interest of Mr. Justice Douglas in this matter, other than being president of the foundation?

Mr. WAGGONNER. That is exactly what I want to know, and that is what the people of this country deserve to know, and that is what a thorough investigation would reveal.

In closing, my colleagues, let me say the question is whether Mr. Justice Douglas, as a salaried president, a director and finance committee chairman, should have known or made an attempt to know about all financial transactions of the foundation, including those involving internationally known mobster Meyer Lansky.

And further the question is, will Mr. Justice Douglas reveal now his relationship with Meyer Lansky, and will he, to clear his name, if indeed it can be done, ask Mr. Lansky to return from Israel to face the Federal indictment which has been leveled against him and which I have placed in the RECORD?

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the special order today by the gentleman from Louisiana (Mr. WAGGONNER).

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

LIMITATION ON SOCIAL SERVICES

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 15 minutes.

Mr. MICHEL. Mr. Speaker, tomorrow we are scheduled to go to conference with the Senate on the Labor-HEW appropriations bill for the fiscal year 1973 and one of the controversial differences has to do with a limitation of $2.5 billion imposed by the Senate Appropriations Committee on the social services portion of the Social and Rehabilitation Service appropriation. In their report on the Labor-HEW appropriation bill for fiscal year 1973, the Senate committee devotes more than a page to this proposed limitation on fiscal year 1973 social services payments to the States—pages 94–95. The Senate language is as follows:

This Committee has included in the appropriation for Grants to States for Public Assistance a maximum limitation of $2,500,000,000 for Federal participation in social services under titles I, IV–A, X, XI, XV and XVI of the Social Security Act. The Committee has come to view with some alarm the phenomenal growth in Federal financing of social services during the past several years. A few years ago Federal matching for services amounted to a few hundred million dollars. In FY-1971 the Federal Government spent $750,000,000 for services and our 1972 appropriation was over $1,295,000,000. This included a $500,000,000 supplemental appropriation required by the incomprehensible growth in Federal financing of this program.

The latest state estimates submitted to the Department of Health, Education, and Welfare in May 1972 indicate that the states will require a total of $2,162,000,000 in Federal financing of services during FY-1973. If this estimate is correct, this would represent a nearly three-fold increase in services during the past two years and an increase over $865,000,000 in just one year.

The Committee is not convinced that these funds are being spent prudently and effectively, in all cases.

This Committee is concerned that the use of this source of Federal financing is out of any reasonable control: The Department of Health, Education and Welfare cannot even describe to us with any precision what $2,000,000,000 of taxpayer's money is being used for.

In order to afford the Department an opportunity to improve its management of this program, this Committee recommended and the Congress approved in the fiscal year 1972 supplemental appropriations bill a substantial increase in SRS manpower. The Committee wishes to reemphasize its intent to provide the SRS with whatever staff is necessary at a sufficiently high civil service grade level to attract the best people into this effort. The Committee believes this latter point is pivotal to the entire effort and will not tolerate any bureaucratic excuses in this regard. The Committee included the full budget request for this special management effort in the fiscal year 1972 supplemental appropriation bill. If the SRS finds these resources to be inadequate to the task, the Committee will entertain a supplemental request for additional resources. The Committee fully intends to hold the Administration to its claim that this management initiative will save over $400 million in Federal funds during fiscal year 1973 without curtailment of benefits and useful services to those persons eligible for those benefits and services. In order that this Committee can assure itself that the necessary management improvements are being accomplished and that the allocations to each state relates to the needs of that state, the Committee will expect the Department to provide a comprehensive analysis of this program in the fall of this year. However, until these improvements are accomplished, this Committee believes that the Congress must limit the Federal liability for this largely unknown, undefined, and open-ended financing mechanism.

Our proposed limitation for FY–1973 of $2,500,000,000 is over $350,000,000 higher than the amount requested by the states for FY–1973. In other words, every state will receive at least the amount they have estimated as required—and in most cases this requirement includes a significant increase in Federal funds for each state. Our reason for establishing a ceiling that is significantly higher than the amounts the states estimate they need, is to take into consideration the possibility that some states may have submitted faulty estimates or have under-estimated their genuine requirements. On the other hand, this Committee believes that it is its responsibility to prevent the continuing uncontrolled and open-ended Federal liabil-

ity for this program until the Congress has been convinced that these funds are being spent prudently and effectively.

The House bill does not contain such a limitation.

ORIGIN OF PROGRAM

The social services program is authorized by the Social Security Act (49 Stat. 620) and finances numerous forms of assistance to recipients of aid to families with dependent children—AFDC—and persons who qualify for welfare in the aged, blind, or disabled adult categories.

Between 1956 and 1967, Congress approved three major amendments to the Social Security Act. The 1962 and 1967 amendments set forth the basic purpose of public assistance social services in broad terms and provided liberal definition of eligible social services.

The 1967 amendments authorized 75–25 percent Federal-State matching for State and local costs of providing social services, specified in an approved State plan, to public assistance recipients, and former recipients.

Also approved in 1967 was a "purchase-of-service" provision, providing that State welfare agencies could purchase services from other public or private agencies, and qualify for the 75–25 percent matching reimbursement rate.

The objective of the social services program, as outlined by the Department of Health, Education and Welfare, is to assist States to:

First. Provide social services to needy children and their parents or relatives with whom they live; maintain and strengthen family life; foster child development; prevent and reduce illegitimacy; encourage family planning; protect children as needed; and help the parent, relatives and caretakers to attain or retain capability for maximum self-support and personal independence; and

Second. Provide services to help aged, blind, and other handicapped adults to attain or retain capabilities for self-care, self-support, and personal independence.

TYPES OF SERVICES PROVIDED

Some of the major services provided, with respect to AFDC are homemaker services, counseling services, family planning services, family life education, services to assist in child rearing, home and financial management services, day care, in-home child care, help in obtaining and utilizing health services, legal services, housing services, self-support services, education services, and programs to maximize the educational and social development of children.

With respect to the adult programs, some of the major services provided are health care services, protective services, home maintenance services and services to improve financial functioning.

It has been estimated by HEW that in fiscal 1972, some 664,600 adults and 12 million children will be the recipients of these services.

PROGRAM COSTS

Federal costs for the social services program are skyrocketing as States are finding new ways to qualify for reimbursement. Outlays amounted to about $354 million in 1969. By 1970, they had risen to $522 million and they reached $750 million in fiscal 1971.

Although the HEW budget estimated fiscal 1972 costs at $1,710 million, it is possible that they could reach $3.5 billion or higher, depending upon the action taken by the Conference Committee.

Costs for fiscal 1973 are currently estimated by HEW at $2,162 million—May estimate—but recent State projections indicate a possible $4.8 billion cost figure.

THE PROBLEM

This program is simply out of control.

There is an almost complete lack of accountability in the present system. We do not know how the money is being spent, nor how effective the funds are in reducing dependency.

For instance, I find that on the purchase of services provision, there is no accountability requirement whatsoever, so there is no way to tell if the people who are supposed to be receiving the services are actually getting them.

We find that States can contract away their responsibilities to other State or private agencies without those other agencies being subject to the same standards as the State welfare department.

We also find that some contracts did not require any progress reports by the contractors, and some failed to specify who has title to equipment or supplies purchased under the contract.

Contracts are not awarded on a competitive basis, with no documentation available to determine whether or not the negotiated amounts were reasonable.

An investigation will disclose open-end contracts with provision for funding increases without any corresponding change in the number of people served or the time period covered by the contract.

There are contracts calling for lump-sum payments with no minimum performance requirements.

Many cases can be cited where ineligible clients are served because the contractor has beer given the responsibility of determining eligibility, and has used very liberal standards. And on top of that, families with excessive income receiving services because the contractor did not verify or update the income information it had on those families.

It is very clear to me that many States are using purchased services as a means of multiplying funds. And, it looks as though about 80 percent of the increase in this whole social services item for fiscal 1973 will be in purchased services.

This is the only service program not subject to congressional control, accountability, and limitation. It is so wide open that about the only real limit on it is the ingenuity of the States in identifying social programs which meet the broad requirements of the law, and in finding ways to fit them within the Federal regulations.

It is possible now for the States to finance almost anything under this system. For example, did you know that one State financed a half million dollar TV documentary with social services money?

In another State, social service funds have gone into the State highway department.

Did you know that in one State program funds are going for advice on personal grooming to potential parolees from the State prisons?

Another State is financing a pre-kindergarten education program with these funds.

And the list goes on and on. In many States as much as 80 percent of their Federal funding under this program is going for refinancing of what were formerly State-financed services. State welfare departments, who are supposed to exercise control over these expenditures, are becoming little more than fiscal conduits. Some States have even gone so far as to formally appropriate private funds—like UGF, and so forth—so they will qualify for Federal matching money.

A big part of the problem, too, is that there is no formula for insuring an equitable distribution of social services money among the States. What we have done is open up a wild chariot race among the States for Federal funds, with the strongest and most aggressive getting the lion's share.

You have Alaska, for example, spending nearly $1,400 per welfare recipient for social services, compared with $242 in New York, $237 in Florida, $35 in Texas, and $7 in Mississippi.

And, of course, that is why we have this tremendous pressure against a limitation of any kind. Because every State wants an equal chance to get a piece of the action.

But, that is just exactly why we must get a handle on this thing, because this is a race that has no finish line—it just goes on and on with the only real limit being the size of the U.S. Treasury.

This is revenue sharing at its worst. We are not even sure that the social service programs into which the States are pouring money to get the extra Federal dollars have any real value to the recipients. I have notes on four different studies here which indicate that social services have very little impact on the lives of welfare recipients.

We are nullifying our own budget decisions, our own priorities by allowing this to continue, because the social service programs become the place where programs can be financed that are not successful in competing for Federal dollars in other Federal programs.

If we are going to have revenue sharing, then let us set it up on an equitable basis, so that every State will have an equal opportunity, and there will be a rational basis for distribution of the funds.

I am sorry to say that indications are that when we get into conference that we will probably end up with the House version with no limitation on expenditure of these funds. But I think that, notwithstanding the fact that the Senate made an attempt which called for an overall $2.5 billion limitation, that we have got to expose these facts to the light for the Members of the Congress, so conceivably we can take some affirmative action by amending the Social Security Act—and of course that would depend

upon action taken by the Committee on Ways and Means.

A LONG STEP TAKEN TOWARD FULL ECONOMIC RECOVERY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, we all received some very encouraging news about the economy last Friday. In separate reports by the Departments of Commerce and Labor, it was reported that the economy expanded at a faster rate during the last 3 months than in any quarter since the end of 1965. The rate of real growth was 8.9 percent.

An equally encouraging note was struck in the area of inflation. For the same 3 months, the rate of inflation was only 2.1 percent, the second lowest of any quarter since 1965.

Consumer prices rose only 0.1 percent last month while food prices went up only 0.2 percent. The average wages of working men went up faster than prices last month. The gross national product increased at an annual rate of 11.2 percent in the last 3 months.

A person can get lost in the sea of statistics contained in these reports, but their net effect is obvious: President Nixon's positive program of economic leadership is paying off. Certainly much remains to be done in providing relief to the housewife and the working man. But these figures prove that a long step has been taken toward full economic recovery. Last Friday's reports are good news for all Americans.

SALUTE TO MORMON PIONEERS

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 10 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, today we commemorate the 125th anniversary of Mormon pioneers entering the Salt Lake Valley after one of the most difficult and remarkable journeys in the history of the American West.

This rugged band of pioneers—who were characterized by courage, dedication, energy, and a boundless faith—settled not just a community, but gave life to a religious movement vitally important to the social and economic development of the West and new strength and meaning to the heritage of freedom won by our Founding Fathers in 1776.

Since 1847, July 24 has been celebrated as Pioneer Day in Utah and Idaho and throughout Mormondom and is the greatest Mormon holiday. But Pioneer Day means something to all the people of America, because the spirit of these pioneers was an example to other pioneers who went on through the remainder of the West.

The early Mormon pioneers endured many months of hardship and privation as they crossed the mountains and plains. Coming into the valley was, indeed, an occasion for dreaming dreams and seeing visions. Since the founding of the church 17 years previously, the Mormons had suffered great religious persecution, but here in the Great Basin the Latter-Day Saints would find the isolation that would let them establish a distinctive community based upon their own beliefs and values. If they could not attain their perfect society in this isolated mountain haven, then perfection was not within mortal reach.

A new era in the history of Brigham Young and his people had begun. A Mormon empire began to grow, with Salt Lake as the center. Despite continued hardship and great sacrifice, the pioneers overcame seemingly insurmountable problems through their energy, resourcefulness, a willingness to help one another, and their deep faith in God.

Within 10 years, 95 Mormon communities were established, stretching from the Salmon River in the north in my own State of Idaho to the Grand Canyon in the south, and from Fort Bridger in the east to San Bernardino, Calif., in the west. Not since the original Puritan settlement had such wholehearted cooperation marked a centrally directed group effort in American colonization. During the 30 years following the Mormons' arrival in Salt Lake City, more than 350 communities were established in Idaho, Utah, Nevada, Arizona, Wyoming, and California. They truly made "the desert blossom as the rose," and built a civilization out of the wilderness.

Today the Church of Jesus Christ of Latter-Day Saints has grown to a membership of more than 3 million people. As we honor their forebears on this Pioneer Day, let us pay special tribute to Joseph Fielding Smith, 10th president of the Mormon Church who died earlier this month. Harold Lee, the new "prophet, seer, and revelator," said—

> Smith's death closed a chapter of history when the leadership of the church has been in the hands of great men who were acquainted with the earliest leaders of this dispensation.

Smith's father, Joseph F. Smith, was the church's sixth president. His grandfather, Hyrum Smith, was a brother of Joseph Smith, founder of the Mormon faith. President Smith was a leader of great wisdom, vision, and conviction who helped provide fulfillment and direction for the church's growing membership.

A new era is perhaps opening for the church as Dr. Lee assumes his position of leadership. To one member of the church's Council of Twelve Apostles—

> It is as if the Lord called him at the precise right time. We are face to face with problems of streamlining and growth, and Harold B. Lee is the right vehicle.

The bold pioneers of 125 years ago set an example that can serve as an inspiration to all of us as we face the challenges and crises of the future. Today, on Pioneer Day, let us remember the pioneer spirit and pay tribute to the courage and devotion of those who helped build our Nation.

AN URGENT PLEA TO THE CONGRESS OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, as the Members of the House and the Senate know, late last month the eastern part of the United States was hit with a horrendous hurricane, Hurricane Agnes, with unbelievable devastation to homes, businesses, highways, bridges, farmland, public utilities, schools, colleges, and many other vital things that comprise our way of life.

One cannot believe the damage done unless it is witnessed, and even then it is difficult to comprehend.

My congressional district was really smashed and the consequent grief and heartbreak to literally thousands of my constituents who, in many cases, lost in homes, businesses, and personal belongings a lifetime of work and dedication, is most difficult to put into words. It would challenge the literary and descriptive capabilities of even our greatest writers.

The damage in my congressional district alone has been set around $500,000,000 for homes. One-half billion dollars for business and industry. Hard to imagine, but true. Today, I will distribute to each Member of the Congress a graphic account of the devastation suffered in my district. This account is in the form of a full-page message and plea by the Northeastern National Bank of Pennsylvania which appeared in the Washington Post on Friday, July 21, 1972. I wish to extend my warmest congratulations to Chairman of the Board John F. Murphy, President Carl A. Propes, to the officers, members of the board of directors, and employees of the Northeastern National Bank for this outstanding demonstration in the public interest. It was a fine move on their part and I am sure it will prove to be a most helpful and constructive one.

As the saying goes, we need all the help we can get. And, we need it now.

I respectfully suggest that each Member of the Congress read carefully the message sent to us by Northeastern. It is a plea that cannot be ignored or set on the back burner for attention at a later time. Last night was too late—the need is now and in great abundance. I join Northeastern in its plea and message to the Congress which follows:

> AN URGENT PLEA TO THE CONGRESS OF THE UNITED STATES: WILKES-BARRE IS ON THE COME-BACK TRAIL—BUT ITS PEOPLE CAN'T MAKE IT WITHOUT YOUR HELP
>
> During the early morning hours of June 23, the city of Wilkes-Barre and its surrounding communities, like five states and the District of Columbia, were ravaged by the effects of Hurricane "Agnes", the worst flood in history. 120,000 people were driven from their homes by the rampaging Susquehanna River, suddenly as much as 6 miles wide. In the Wyoming Valley alone, there was $500 million worth of damage to homes and ½ billion dollars loss to business and industry, almost all of it uninsured. Schools, roads, bridges, water and sewer systems, other community services were wiped out.
>
> 25,000 homes were damaged. In suburban Kingston, all but 20 of 6600 homes were flooded.
>
> This is the story of how the people of Wilkes-Barre and its surrounding communities are fighting back. It is also the story of the efforts being made to help the flood

victims across the nation and of how you can aid them.

Eddie Chernesky, a foreman in a textile plant, looked at his house as soon as civilians were allowed back to the flood area. His household goods, his furniture, the family clothing and a life-time accumulation of memories had washed through the house and into the thick mud that covered everything. Chernesky and his wife moved in with friends in a neighboring community spared by the flood, borrowed shovels and flashlights, carried jugs of water and started to work.

"I was born and grew up in the Valley," says Chernesky. "My job is here, my kids grew up here. We'll manage." But for Chernesky and thousands of other wage earners, it won't be easy.

Hospitals were flooded and forced to evacuate their patients. Wilkes-Barre's Mercy Hospital moved patients to a nearby Veteran's Administration Hospital and a convalescent home. Patients from Nesbitt Memorial Hospital in Kingston were evacuated to College Misericordia in suburban Dallas, Pa. Nuns from the college worked alongside hospital personnel to treat 3,000 emergency patients. 31 babies were delivered, 300 medical and surgical patients were admitted and discharged, and 25 intensive and coronary care patients were treated while the hospital operated out of the women's college facilities.

Llewellyn & McKane is a small printing plant trying hard to be a bigger one. Three young brothers—Guy, Jack and Denny Llewellyn—had taken over the business from their father and a partner and had built a brand new, modern plant, a mile away from the Susquehanna's banks. Now the plant looked as if a giant had reached down and shaken its contents like dice. The big new presses would have to be taken apart, cleaned piece-by-piece and painfully, expensively re-assembled. Guy Llewellyn says, "We've got a small press back in operation and we're going to lick this thing. I hope to God we can get some help."

Some industries were wiped out. Some other businesses will probably never re-open. But they're the exception.

Chernesky and the Llewellyns represent the dominant spirit in the flood area. Their town was hard-hit by the Depression and by the loss of the Anthracite Coal industry, which had built it but they're tough and they're coming back. And, fortunately, much of the new industry brought to replace the dying coal mines is located on high ground and was safe from the flood, so a base of industrial employment gives them reason for hope.

In the hours and days immediately after the flood, government and civilian organizations and thousands of individual volunteers mobilized to keep the loss of life to a minimum and to provide emergency services. Congressman Daniel J. Flood of Wilkes-Barre and Joseph McDade of neighboring Scranton asked for, and received, forces from the Armed Services, the Office of Emergency Preparedness, the Small Business Administration, the Department of Housing and Urban Development, from every possible government source.

Pennsylvania Senators Hugh Scott and Richard Schweiker pitched in to help. Governor Milton J. Shapp flew in and, shocked by the damage, began to mobilize state agencies. The Luzerne County Civil Defense organization, headed by retired General Frank Townend, a lawyer, served to coordinate activities and maintain communications. (The ordinarily fiercely-competitive radio stations, almost without exception, pooled their broadcasts in an emergency network that kept a steady stream of factual information available and prevented the spread of false rumors.) Scranton and Hazleton newspapers helped Wilkes-Barre papers to resume publishing. A flood TV station moved to its mountain-top transmitter and, helped by the other stations, maintained broadcast service.

The Pennsylvania National Guard, the Red Cross, the Salvation Army—all stepped in and worked.

When Wilkes-Barre Mayor Con Salwoski's government could no longer function, Mayor Eugene Peters of Scranton and the Scranton Chamber of Commerce led a mammoth volunteer effort that contributed food, health services, clothing and hard physical labor to help their neighboring city.

The United Fund has raised hundreds of thousands of dollars for flood relief. But frankly, all of this work, all of this fighting spirit, all of this help won't be enough to help the six-state flood area come back. It needs your help.

President Nixon has proposed to Congress the most sweeping flood-relief program in history.

You can make sure that this program becomes law to assist the fighting people of Wilkes-Barre and countless towns and cities in six states to come back with grants and low-cost loans for their homes and businesses and with grants to replace their destroyed schools, roads, bridges, sewer systems and other community facilities.

Six states and the District of Columbia were hurt this time. But the next disaster might strike anywhere.

We urge prompt "YES" votes for the "Agnes" Disaster-Relief legislation to help a determined people to help themselves.

(Northeastern National Bank of Pennsylvania is headquartered in Scranton, with 13 offices throughout the Pocono-Northeast Region. Our Wilkes-Barre office was flooded, and we have opened a temporary office to serve the area's banking needs, with special assistance for all of the flood victims. We publish this advertisement in the hope that prompt, compassionate consideration will be given to the needs of the flood victims throughout the affected six-state area.)

RESCUING STRANDED U.S. CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 5 minutes.

Mr. ADAMS. Mr. Speaker, Pan American World Airways is to be commended for its efforts to assist thousands of U.S. citizens in returning home from Europe after being left stranded there by the business failure of a European air carrier.

Upon learning of the plight of some 5,000 passengers scheduled to return to Seattle, Wash., between June 25 and July 29 from London, Amsterdam, and Frankfurt on the bankrupt firm's planes, PanAm immediately asked the Civil Aeronautics Board for permission to carry our citizens home. Permission was granted by the CAB and PanAm is currently returning them on a space available basis to their homes here.

I am informed that other U.S. carriers have joined in this fine endeavor of rescuing stranded U.S. citizens abroad.

I place in the RECORD the following statement by PanAm dated June 22, 1972, relating to this subject:

PAN AM AIDS PASSENGERS STRANDED BY CHARTER AIRLINE

Pan American World Airways today asked the Civil Aeronautics Board for permission to carry home American passengers stranded in Europe by the failure of a charter airline.

"Pan Am desires to do all it can in the next few weeks to facilitate the return of the stranded citizens to the United States," the airline said.

About 5,000 passengers were scheduled to return to Seattle, Washington, between June 25 and July 29 from London, Amsterdam, and Frankfurt, aboard a charter airline that went out of business in the past week.

APPOINTMENT OF MR. E. V. "PETE" DORSEY AS REGIONAL POSTMASTER GENERAL FOR EASTERN REGION IN PHILADELPHIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. HENDERSON) is recognized for 5 minutes.

Mr. HENDERSON. Mr. Speaker, it is with pleasure that I inform my colleagues of Postmaster Klassen's appointment of Mr. E. V. "Pete" Dorsey as regional Postmaster General for the eastern region in Philadelphia.

The eastern region covers the States of Virginia, Maryland, West Virginia, District of Columbia, Delaware, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Pennsylvania, and portions of New York, New Jersey, and Connecticut.

Mr. Dorsey will be responsible for policies and operational directives for 9,800 post offices, and labor-management relations for approximately 150,000 postal employees.

Pete Dorsey's appointment brings to the U.S. Postal Service the needed postal management experience of a top career postal employee. His postal career is one of progression, from the position of postmaster at Upper Marlboro, Md., to department headquarters as branch director in the former Postmasters and Rural Carriers Division, Special Assistant to the Deputy Assistant Postmaster General in the Bureau of Operation; appointment as Deputy Assistant Postmaster General, in this bureau, and finally being named as Acting Postmaster General.

On his retirement, he joined NAPUS, the National Association of Postmasters of the United States as their executive director. He was brought out of retirement by Postmaster General Klassen as his special assistant, and his recent appointment as Regional Postmaster General for the Philadelphia region will be well received.

I am confident Pete Dorsey's appointment and outstanding postal background and experience will contribute substantially to the postal management structure.

SPEECH BY JAMES E. CLYBURN TO SOUTH CAROLINA FEDERATION OF WOMEN AND GIRLS' CLUBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 20 minutes.

Mr. DAVIS of South Carolina. Mr. Speaker, I rise to call attention to a recent speech made by James E. Clyburn, assistant to the Governor for human resource development in the State of South Carolina. Mr. Clyburn has captured, I feel, the mood of our country. In his speech to the South Carolina Federation of Women and Girls Clubs, he

has brought into sharp focus the problems and he has also proposed the answer to these problems. I submit his speech to this august body and urge all my colleagues to give their consideration to his words:

REMARKS BY JAMES E. CLYBURN

"These are the times that try men's souls, 'summer soldiers' and 'sunshine patriots' will in this crisis shrink from the service of their country, but he that stands it now deserve the love and thanks of men and women—for tyranny, like hell, is not easily conquered. Yet, we have this consolidation with us that the harder the conflict, the more glorious the triumph." The preceding is an excerpt from *The Crisis*, written by Thomas Paine in 1776. Yet it is just as true today as then. These are the times that try men's souls. These are times of contradiction and contrast. For some it is a time of trouble, suffering and grief; for others a time of joy, prosperity and triumph. These are times of despair and deprivation for many; and yet these are times of magnificience and affluence for others. These are times of precarious peace and the reality of continuing war. Three outstanding aspects of today's times are common to all who inhabit the globe, regardless of what aspects of the present may affect them. The paramount aspects are these: They are times of change, times of risk, and times of opportunity.

No one alive today can escape the pace of modern society. Old ideas are changing, new moralities are emerging, old civilizations are dying and new ones arising. Attitudes are being challenged and old answers are being questioned. Leaders speak out, urging us—first one way, and then another. some men of the cloth say God is dead. Young people demonstrate against the war in Viet Nam. School busing has become the foremost political issue today and everybody find themselves engulfed in the emotionalism of rhetoric. Jet engines loom overhead while sharecroppers walk behind sway-back old mules in rural southern communities and under-developed countries.

New worlds are being discovered by science. Some ten men have walked on the moon and others explore the bottom of the sea. The farthest corners of the earth have become accessible to the average human being. Scientists speak of determining the sex of unborn children and of altering their inherited characteristics.

How does an individual live in such a changing and confusing world? Everything is bigger and faster and we see ourselves shrinking in contrast. There is little time to stand for hours before a mirror to ask, "who am I?" We sometimes see ourselves as members of a faceless crowd. We lose the sense of our own special worth, becoming instead insecure or afraid.

This insecurity takes many forms. Some of us cannot face this world and retreat into a world of mental illness, alcoholism, or drugs. Others of us attempt to find security by building bigger houses, buying more things, and seek to compete with our friends in an effort to establish who we are. We deny our families and are jealous of our friends. We refuse to see our poor. We climb so high and move so fast that we sometimes push our neighbors off the social ladder in an effort to get there first.

We know that to live in this changing world we must work together for the common good of all, yet we watch our leaders bicker and our friends disagree. We see betrayals and "sunshine patriots" motivated by pride or greed or self esteem. We see ourselves in a whirlwind and forget we are not the only ones affected.

All of this contributes to the individual's feeling that he doesn't count and is not needed; that he cannot cope effectively. One person's efforts seem futile and hopeless. Is it any wonder the individual feels insecure?

What is a sunshine patriot? I submit to you that a sunshine patriot is one who loves his country when it is sunny and bright; one who supports its authority when the time is right; who has an interest when the situation is safe. But, when the rains come, when time doesn't seem right, when it seems to be a little dangerous, he forgets his patriotism. . . . One begins to wonder! Now . . . I ask you, what is this crisis? What is this crisis that is prevailing itself upon our community that is causing so-called men to become summer soldiers and sunshine patriots?

The second aspect of today's times, common to us all, is that we live in a time of risk. In many parts of the world the risks have different faces. Nations and men are marching to the rhythm they hear—but all of it containing risk.

With some, it is in the increasing tempo of trade, production, profit; with others it is the pursuit of knowledge, of leisure, or of pleasure. But in too many places of the world today it is the drumbeat of war, of revolution and violence.

We have paid a high price for new frontiers, sometimes even bloodshed and cruelty. The world balances between hot wars and cold wars. There are violent struggles in economics, in race, in religion, and in politics. Violence erupts in the Middle East, in Harlem, in Atlanta, in Africa, in Laos, and in Vietnam.

Even here in South Carolina we have not solved all our problems. But why? I submit to you that it is only because we fear risk. These fears may be very real fears . . . losing a job . . . being ostracized . . . not losing with the in-crowd . . . going against the whims of the power structure . . . and other problems which may be peculiar to your own situation.

There are still inequalities in courts, in schools, in jobs and in social privileges. These are realities that we must face or become as "summer soldiers." What is a summer soldier?

A summer soldier is one who will fight as long as the weather is pleasant. He will fight as long as the fight is not too hot. He will fight as long as his innermost being tells him it is safe. But when the hard cold weather of winter comes . . . or when the hot breezes of the battle raises . . . or when danger shows its presence, these so called men, these male species of human beings, these summer soldiers will stop fighting, lay down their arms, sit back and wait until times are once again pleasant.

All of this leads us to that third outstanding element of these times—that is that we live in a time of unprecedented opportunity. In spite of the negative elements, these are times of new hopes, new dreams, and new visions. We have hopes for the individual and for his well-being; and hopes for a world of peace and just advancement.

Since we are fortunate enough to be living in this era, for our own sakes, as well as those close to us, and for that of the community, it is imperative that we operate in our times.

Each individual in the world today owes it to himself, his contemporaries, and to society to exercise in so far as possible, what has been called the fifth freedom of man—the freedom to be one's best; to realize his full potential. For what does it matter to to each youth the four basic freedoms of man—freedom of religion, freedom of speech, freedom of the press, and freedom to petition for redress of grievances—then send him off to college where all of these things are suppressed and very little effort is put forth to develop that fifth freedom—the freedom to be one's best; to realize his full potential.

We need to care about what is happening today. We need to feel that we matter to it, and the consequences of it. And we need to feel that what we do will matter; that even though as only one individual, our efforts will make a difference on the plus side.

From there we take another step. As an individual, you must admit and accept responsibility. Now is the time to speak out, to act, to work for the things we care about. Now is the time to align ourselves with others who also care. And we must remind ourselves that admitting and accepting responsibility is not enough. We must also fulfill it.

We go about fulfilling our responsibilities first by serving ourselves, than others. When Shakespeare wrote, "to thine own self be true," did he not mean that we need to serve ourselves by developing ourselves physically, mentally, and spiritually to be our best? For only then can we realize our full potential and thereby serve others, and make our best contribution to our world and our time.

It is a strange and wonderful thing that in the process of such development and growth we find ourselves caught up, and involved in attitudes, and actions, which make each of us a participant in these times, rather than a mere spectator. When we do so—when we become participants—our capacities for growth are greatly enriched, and our lives become meaningful and brighter.

We move to act with others who, in similar process, are participating, learning together, cooperating and achieving together. For an individual cannot be a real person until he is related to another person, a community of persons. In realizing his best potential, he becomes open to others, communicates himself to another, to a community of persons; and they react in communication with him.

In this process we discover our own increased powers and significance, and realize the strength and impact which the contributions of many working together can make.

We must learn to work with others and the federation of women and girls' clubs offer the type of atmosphere necessary. For more than sixty three years, you have kept abreast of the times. You are available for the whole community, but especially for women and girls. Your prime purpose is the physical, mental and spiritual development of the individual.

You provide many opportunities for becoming an effective person and for working with the community. You offer the chance to work toward constructive solutions to some of the critical issues before us today. Along the way you make new friends with others; some like yourselves, and others, unlike yourselves—friends of different origins and backgrounds; you learn to win and to lose; to fail and to succeed; you learn to give and to receive, to share, and to serve. And just as important to every person, you have fun.

In this process and in its receptive setting, you acquire skills and knowledge, which will help to equip you to cope with our present times, and with the times to come, times of even greater change, risk, and opportunity.

We have come a long way but we have many more miles to travel and if we are to be successful, we must travel them together.

I should hope that we will move forward in 1972—working together—mapping solutions, developing plans and reordering priorities.

In order for you to adjust to this society, you must learn to speak its language and learn to manipulate the many obstacles which are designed to impede your progress.

You must be willing and anxious to fend for yourselves. You should have no infallible party, no iron creed, no all-purpose blueprint, because you should not propose to chain people to a system of false logic and empty loyalties. You should have faith in your own human intelligence, human will, human decency and courage, for I believe that these remain, the real forces of change.

It is your responsibility to effect that change. But you must continue to be wise, you must continue to be humane, you must continue to affect its character. We are a young nation, we are a growing nation. We are making progress, but as Robert Kennedy so ably stated at Chicago in 1963, "Progress is a nice word, but change is its motivator, and change has its enemies." Change is always painful and those of us who advocate it will be criticized, but we must not be afraid of criticism. We will be labeled with some of the less acceptable labels in our society. But if attempts to feed a hungry child is militant, so may it be. If it is radical to call for efforts to rid our state of its substandard housing units, so may it be. So if its "Uncle Tomism" to urge increased communication between blacks and whites, be not afraid. Plato wrote, "A life without criticism is not worth living," but breathing is not living, it is only a sign of life. To live is to be free . . . to live is to move through time and space . . . changing the world . . . making all things new . . . discovering fire . . . inventing the wheel . . . developing blood plasma . . . and searching for new mountains to climb . . . other valleys to span and more bridges to build.

TREASURY UNDER SECRETARY TESTIFIES ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 60 minutes.

Mr. REUSS. Mr. Speaker, last Friday the Joint Economic Committee began its third day of hearings on tax reform with testimony by Edwin S. Cohen, now Under Secretary of the Treasury. In his prepared statement, the Under Secretary lauded the existing tax system as "the most efficient revenue device in the history of the world." Under questioning, however, he conceded that the "adjusted gross income" figures on which he based his conclusions had "great defects" as a measurement of income distribution. He further acknowledged that he would "not try to defend the efficiency on the minimum tax."

Excerpts from Under Secretary Cohen's statement and the debate follow:

Mr. COHEN. At the other end of the income scale, much has been said in the heat of a political campaign year to indicate that the rich somehow manage to avoid paying income taxes. In the face of political rhetoric, it is important that we keep a proper perspective and consider the need for further reform of the tax structure with a calm and deliberate appraisal.

It is true that a small number of taxpayers with high "adjusted gross income" showed no net "taxable income" on their tax returns for 1970. But if we look at the data as a whole it is clear that persons with high adjusted gross incomes are paying heavy federal income taxes. The Preliminary Statistics of Income for 1970—and our final statistics will be available in a few weeks—show the following.

I shall not try to read the table, Mr. Chairman. But if you will notice two of the five lines that I have comment on when three persons out of a group of 624 with adjusted gross income above $1,000,000 pay no tax, it is pertinent to inquire why this might occur. But in making the inquiry, one should not lose sight of the fact that 621 of this group paid an average tax of about $985,000, for a total of $612 million. This represented an effective tax of 46.4 percent of their adjusted gross income and 65.3 percent of their net taxable income.

Similarly, for the 15,323 with adjusted gross incomes above $200,000, the data shows 112 persons paying no tax, but it shows that 15,211 persons paid an average tax of $177,161, for a total of $2.7 billion. This represented an effective tax of 44.1 percent of their adjusted gross income and 59.5 percent of their taxable income.

We should be slow to condemn a federal income tax system that produces by voluntary assessment these huge amounts of tax on high adjusted gross income groups merely because a fraction of one percent of the cases report no tax due.

I might add, Mr. Chairman, that late yesterday afternoon I saw some of the first runs from the computer model of the 1970 tax return, which is just becoming operational. And this involves the minimum tax which some persons have said has been largely ineffective, but it certainly has been effective in some cases, because there was the case of one individual who paid no regular income tax but a minimum tax of over $600,000. At least for that individual a minimum tax enacted in 1969 had a substantial impact.

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Representative REUSS. You point out on pages 3 and 4 that for people with adjusted gross incomes above $200,000, which number 15,323, almost all of the 15,211 paid an average tax of $177,161, and that "this represented an effective tax of 44.1 percent of their adjusted gross income, and 59.5 percent of their taxable income."

Well, that sounds reassuring to somebody who doesn't know what adjusted gross income is. But is it not a fact that adjusted gross income is one of those lovely Treasury terms which deliberately excludes the very loophole income we are talking about—capital gain, oil depletion, tax exempt bonds, interest on life insurance savings, and so on? So that these people did make millions, taken together, on which they paid no tax whatever, and this 44 percent figure merely relates to that portion of their income which wasn't loophole income, isn't that so?

Mr. COHEN. Mr. Chairman, I could not agree more that the use of adjusted gross income as a measurement here has great defects.

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Now, you are perfectly right in saying that adjusted gross income does not include tax exempt state and local bond interest, for example, it is calculated after reduction of a percentage depletion in excess of cost depletion. It includes only 50 percent of net long term capital gains. And all of these defects I not only agree with you on, but I insist on them in collaboration with you.

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Representative REUSS. Let me suggest that I don't think the real question which gets us tax reformers outraged is so much, as you suggest it is on page 2, that the rich manage to avoid paying income taxes entirely. That gives rise to endless witty diversities about the 109 and what they actually did, and I am really not particularly interested in. What does concern me is that a great number of very well to do people pay a pittance in federal income taxes while the average working person pays much more.

For example—and I don't think this is disputed—back in March, when you released your Internal Revenue Service publication 198–2–72—that was the one that related to the 18,000 wealthy people who theoretically were subject to the minimum tax, the 10 percent minimum tax—we found that the average tax they paid on their tremendous income was 4 percent.

Well, that is just half of what a $7,000 a year working man pays. He pays at the rate of 8 percent. Doesn't this disturb you?

Mr. COHEN. Yes, Congressman.

Representative REUSS. But there is not a word of it in your presentation. All you do is laugh off the 108 who seemingly achieved the mission impossible, escaping without paying a dime of taxes. Well, in many cases I would agree with you, there is good reason for that. But put them to one side. It is just indisputable that these 18,000, that is a lot of people, all of whom made very large incomes averaging well over $30,000 a year, paid at the effective rate of 4 percent, whereas a $7,000 a year worker pays at the rate of 8 percent. I don't see how we can tell our constituents that they should stop their taxpayer's revolt, that all is well, while that is going on.

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Mr. COHEN. With respect to the minimum tax, I shall not try to defend the efficiency of the minimum tax. (. . . . .) I think we ought to do a good hard look at it.

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Representative REUSS. You state in your paper, Mr. Under Secretary, that the President has stated that he will submit to the Congress for action next year recommendations for tax reform. That certainly sounds good. But how do you reconcile that with the fact that at the hearings last year on the Economic Report I asked the Secretary of the Treasury, Mr. Connolly, what the Administration's attitude was on the nine or ten leading loopholes—I mentioned them—oil or gas percentage depletion, intangible drilling expense, capital gains on property transferred at death, unified gift and estate tax, generation skipping trusts, capital gains holding period, stock options, state and local bond interest—he was militantly opposed to closing every one of those.

And then, as if that was not said from on high, just a couple of months ago Mr. Connolly had Mr. Nixon down to his ranch, and they had all of the leading industrial and banking and oil interests of Texas, or at least a good share of them, at the barbeque. And at that meeting, according to the press release issued by the White House which I have, President Nixon said to this audience:

"As far as I am concerned, I strongly favor not only the present depreciation rate, but going even further then that, so we can get our plants and equipment more effective. That is why, in terms of depletion, rather than moving in the direction of reducing the depletion allowance, let us look at the fact that all the evidence now shows that we are going to have a major energy crisis. To avoid that, we have to provide incentives rather than disincentives for people to go out and explore for oil. That is why you have depletion, and the people have got to understand it."

Well, in the light of those statements, what can I tell my constituents in the event that Mr. Nixon is re-elected? Is there going to be any help from the average workingman taxpayer, or is he going to continue to be confronted with the fact that even at the bottom of the working spectrum he has to pay an 8 percent effective rate, while the loophole enjoyers pay one-half of that, 4 percent? What hope can I give him?

Mr. COHEN. Mr. Chairman, I think you can give him the hope that the President, as I understand it, at the press conference—at which I was not present, but it was also reported in the papers more recently than that—has specifically stated that he will present to the Congress recommendations with respect to tax reform.

Representative REUSS. Would you consider a national sales tax like the value added tax, tax reform? Would that satisfy the commitment to recommend tax reform?

Mr. COHEN. It is not my understanding that that is my instruction. You are asking me about politician and governmental decisions to be made at a level above mine, Mr. Chairman, as I am sure you realize. All I know is that I am hard at work, and our staff

is hard at work, in a review of the Federal tax structure from stem to stern.

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With respect to the value added tax or a sales tax, or what other form of expenditure tax or consumption tax might be considered, the Treasury has considered this problem, as I understand it, for some 30 years, and we have reviewed this, and the President has asked the Advisory Commission on Intergovernmental Relations to make a report to him with respect to the advisability of using a value added tax, a sales tax, or any other form of tax in conjunction with the need to improve the property tax problems, particularly in relation to filling the need for education.

You are aware of the court decisions that will require, if those cases are sustained, some change in the property taxes in relation to education. That matter is under study by the ACRI.

Representative REUSS. Then your answer would be that, speaking for yourself, and just as a matter of philosophical definition, the value added tax could be comprised under the general rubric of tax reform?

Mr. COHEN. But it certainly could be an incentive, and it is used, as I am sure you know, to a very large extent in European nations.

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Representative REUSS. The Treasury has been, I would assume, reviewing those tax laws for the last three years since 1969. Have you got anything to report to us this morning, any improvements, closing a loophole or two, any break for the average wage earner, any good news?

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Mr. COHEN. We are trying at full speed to get available the data for the effect of the 1969 Act. We are just in the process of getting operational the computer models of the '69 returns and the '70 returns, and in the process of updating those for economic data for 1972 and 1973.

Now, we do not yet have the computer data, the statistical data from corporation returns for 1970. So, it is not yet possible to measure the effect of the 1969 Act on corporations until we have that data. But that data will be available within the next few weeks.

Now, we are making, as I indicated to you, this full review, and the President will make the recommendations to the Congress, as he said, for action next year. I think it would be inappropriate and presumptious of me to indicate what those recommendations are, because at this stage I don't know, and even if I did, they should be made by him, and not by me.

Representative REUSS. That is entirely proper. And we can expect those Presidential recommendations, then, in the next few weeks?

Mr. COHEN. No, that is all the President said, the President said that he would have his recommendations, according to my recollection of the press conference, by the end of the year.

Representative REUSS. Not before the election?

Mr. COHEN. My recollection of this is that he said by the end of the year. I would assume that that would mean in time for Congressional action next year. And whether that means the latter part of December in his budget message or State of the Union message—assuming, of course, his reelection.

Representative REUSS. You couldn't induce him to accelerate that date? I was just thinking that the average working taxpayer might get a better break if the Presidential recommendations came before the election than after. Is that a thought forbidden under the rule of calm and deliberate appraisal that you and I have adopted?

Mr. COHEN. I would think, Mr. Chairman, that, recognizing the tight schedule of the Congress and the matters that are pending before the committees that require action between now and the close of the Congress, that it is pretty clear that there is no opportunity for tax legislation this year.

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Representative REUSS. Turning to another point you made earlier, Mr. Under Secretary, you stated that tax changes since 1969 have by no means helped or preferred corporations as against individuals.

Let me ask you this question.

Is it not a fact that the revenues yielded by the corporate income tax in 1969 were some 20 percent of total federal revenues, and that the percentage will decline to something like 16 percent in this year, 1973? In other words, that the corporate income tax has declined in its revenue raising proportion?

Mr. COHEN. Mr. Chairman, may I make two comments in relation to that.

One, if you compare one year's tax with another year's tax, there is a great difference in corporate profits in one year as compared to corporate profits in another year. I don't at the moment know the relationship of corporate profits in 1969 to corporate profits—did you say in 1971?

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Now, the second point that I would make is that Social Security taxes are constantly rising, and Social Security benefits are constantly rising. And they are assuming a larger and larger proportion of the total budget. I take it you are using unified budget figures. And therefore as Social Security taxes go up and benefits go up, they force downward the percentage of all the other taxes in the total revenue.

I understand from a brief summary that Mr. and Mrs. Ott referred to this circumstance in their testimony yesterday.

Representative REUSS. What you have said about Social Security taxes, which are, of course, a relatively regressive tax, brings up another question which is very much in the area of public discussion today, the question of income shares in which taxation is partially but by no means wholly involved. Still I would like to ask you about it.

I am disturbed by the comparison of the figures from the Federal Reserve—they are the best figures we have—of the shares in the national income in 1963 and 1970—that is the most recent comparison we have. Whereas for a generation before 1968, the income shares of the five-fifth of the American people were getting more egalitarian, the discrepancy between rich and poor was decreasing. Something happened in 1968 and thereafter, so that in 1970, the last year for which we have figures, according to the Federal Reserve, the percentage shares for the top one-fifth of American families went up a whole percentage point, from 40.6 percent to 41.6 percent.

The next to the top went down from 23.7 to 23.5 percent. The middle one-fifth went down from 17.7 percent to 17.4 percent.

The next to the bottom one-fifth went down from 12.4 percent to 12 percent. And the bottom one-fifth went down from 5.7 to 5.5 percent.

In other words, what happened was, the top fifth, the wealthiest families, went up a whole percentage point in their shares, and the other four-fifths of the American families went down in their shares, with the man in the middle hurt the worst.

Until somebody demonstrates to the contrary, I think what has been happening in this country—and I suspect it has gotten worse since 1970—is that between 1968 and 1970 unemployment almost doubled, inflation greatly increased in its rate, and the share of total taxes paid by the progressive Federal income tax was going down, while regressive local property and state sales and Social Security payroll taxes were increasing.

You put all of those together, and you have what to me is something very alarming, namely, a reversal of the beneficent trend that we had for a generation. If we keep on this way long enough, not only are there going to be some of the taxpayers revolts that we are talking about, but could just be that we are going to run out of purchasing power in the economy to take the product off the market in a given period.

And that is no way to run a free enterprise economy.

Now, this goes much beyond taxation, but fortunately, you and your concerns do, too. So, I would like your response to those Federal Reserve revelations.

Mr. COHEN. I am not familiar with the precise data, Mr. Chairman, I don't know exactly how that data is calculated. And I would like to examine it.

I can say with respect to the tax side that this is one of the matters that I have been very anxious to proceed to examine. And our computer models of the 1970 tax returns in relation to 1969 and 1968, the preliminary indications are that the 1969 Act did significantly increase the effective tax rate in the upper brackets in relation to that in the middle and low income brackets.

But we will not know that in detail for some weeks as yet.

But I agree with you that that is a matter that should be considered.

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I am not that familiar with the Federal Reserve figures to be able to comment beyond it. But I don't believe that the tax law changes in 1969 contribute to that. Indeed, if it took place it took place in the face of the changes in the tax law in 1969.

Representative REUSS. I would have just one more question, Mr. Under Secretary.

Congressman Vanik in his testimony before this committee earlier this week told us that a number of very large corporations, among them Continental Oil, McDonnell-Douglas, Gulf and Western Industry, Aluminum Company of America, Signal Company, had large amounts of income in 1971, yet paid no federal income taxes.

Is that true?

Mr. COHEN. Congressman, as I am sure you will recall, I am forbidden by law to state what any individual taxpayer or corporate taxpayer has paid.

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Now, he [Congressman VANIK] has used in this taxable income for 1971. I don't see how he could possibly have known the taxable income for 1971 because most large corporations don't file their tax returns until September 15, if they are on a calendar year basis, they generally file estimated returns in March and get six months extension. So, we wouldn't know their taxable income, and I don't understand how Congressman Vanik could know it. He may have guessed at it from trying to use financial accounting statements. But financial accounting and tax accounting are widely different concepts, for a variety of reasons which I will not trouble you with.

But the biggest problem is that he is using the U.S. income tax in relation to world wide income. I think if you make a comparison you should either use total income taxes paid world wide in relation to world wide income, or you should use the U.S. tax in relation to the U.S. income.

COMPREHENSIVE TEST BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. ABZUG) is recognized for 10 minutes.

Mrs. ABZUG. Mr. Speaker, on December 9, 1971, I introduced a resolution for a Comprehensive Test Ban Treaty. In support of my resolution, I noted that in

signing the Nonproliferation Treaty in 1968, the United States pledged to work for a total test ban. As the House knows, many of the signers of the NPT agreed to do so only with the understanding that the nuclear powers would make serious progress toward disarmament and reduction of world tensions caused by the nuclear arms race.

On February 22, 1972, I inserted into the RECORD an article from the bulletin of the Sierra Club, which stated that the damage done to the environment by the 5-megaton underground nuclear test at Amchitka, known as Cannikin, was far greater than originally predicted by the AEC. Recent surveys have demonstrated that as many as 1,000 sea otters—four times the highest number predicted by AEC—were killed as a result of this blast. Other long-term environmental damage may still come to light.

I insert two articles on this subject which appeared in the press last weekend:

[From the New York Times, July 23, 1972]

HALTING NUCLEAR SPREAD

By 1976 about one-fourth of the countries in the world will have large nuclear reactors in operation for the production of electric power and thus a significant potential for making atomic weapons. Apart from today's five nuclear weapons nations—the United States, Russia, Britain, France and China—some 27 other countries will be producing plutonium as a by-product of electric power generation, enough of it to make at least 900 Hiroshima bombs a year.

The growing cost and mounting shortage of other forms of energy—the American electric power industry alone is planning to expand from 26 to 300 power reactors by 1990—has brought the advent of the long-delayed nuclear power era. With it has come the long-feared danger that possession of nuclear weapons will spread around the globe.

It was this danger that the United States, the Soviet Union and Britain sought to head off in the 1968 Non-Proliferation Treaty (NPT). But four years later, although 102 non-nuclear weapons countries have signed, only 71 have ratified the treaty. Only two of the eight so-called "threshold" or "near-nuclear" countries have ratified the NPT, Canada and Sweden. The NPT signatories that have not yet ratified the treaty include four threshold countries—West Germany, Japan, Italy and Switzerland—and such other important nations as Egypt, Turkey and Australia. Nonsignatories include two near-nuclear countries, India and Israel, as well as Pakistan, Brazil, Argentina, South Africa and Spain.

It is becoming clear that the treaty as it now stands is unlikely to gain the adherence of many of these countries unless the United States and the Soviet Union can agree on a number of collateral measures designed to attract them. This is the conclusion that has emerged from an unusual project of parallel studies by the United Nations Associations of the United States and the Soviet Union. The reports of the two U.N.A. policy panels, just published in both countries, point the way to the measures most needed.

Action by the United States and the Soviet Union to make more credible their security assurances to nations that take the pledge against becoming nuclear powers are at the top of the list of such collateral measures. For Japan, India, Pakistan, Israel and Egypt, security is the central concern.

But most important, perhaps, is the tone in world relationships and arms control set by the superpowers. On the heels of the historic SALT I agreements, a move to extend the 1963 nuclear test-ban treaty to underground tests could make a major contribution to nonproliferation. The U.N.A.-U.S.A. report points out that virtually all the countries now hesitant about adhering to the NPT signed and ratified the limited test-ban treaty and are on record as favoring an underground test ban.

The United States and the Soviet Union spent more than four years negotiating the Non-Proliferation Treaty. They will have to move vigorously over the next few years if the dangers they foresaw, which now are becoming a reality, are to be contained.

[From the Washington Post, July 23, 1972]

AMCHITKA OTTER KILL HELD 1,000

(By Dennis Cowals)

AMCHITKA ISLAND, ALASKA.—A month-long survey on this remote Aleutian island has convinced biologists that shock waves from last November's underground test of a prototype anti-missile nuclear warhead killed as many as 1,000 sea otters.

But Alaska State game Biologist Karl Schneider, a sea otter specialist, who had claimed earlier that the five megation hydrogen bomb killed more otters than the Atomic Energy Commission admitted or had predicted before the Nov. 6 blast, says there is "no significant long-term damage" to the island's otter population.

Scientists believe 6,000 to 8,000 sea otters inhabit this rocky, treeless island, 1,200 miles southwest of Anchorage, Alaska.

Schneider said recently completed population surveys "didn't change our opinions of what happened a great deal."

AEC CLAIM CHALLENGED

A week after the detonation of project Cannikin more than a mile underground, Schneider and other state biologists challenged the AEC's claim that only 18 otters died, suggesting instead that 800 to 1,000 had been killed along a seven-mile stretch of Bering Sea beach.

Dr. Melvin R. Meritt, the AEC's top environmental effects scientist for Cannikin and the island's 1969 Milrow test, doubted the charge, saying he "couldn't believe 800 otter were killed." A month before the blast, AEC scientists had predicted that perhaps 240 otters would die as a result of the test.

But a savage, 100-mile-an-hour Aleutian storm swept the island the night before the test. Its dying gusts would have removed the evidence, carrying away nearly all of the otters that were killed by the blast, Schneider and others countered.

Only comparison studies requiring a new otter census this year would settle the matter, scientists agreed.

From the Las Vegas test headquarters of the AEC, an agency, spokesman admitted the discrepancy between otter counts made this summer and last.

The highest otter tally along the area "this year the highest area showed 1,215 animals in the area, "this year the highest count was 452," the spokesman said. "It is assumed there are fewer sea otters there because of Cannikin," he allowed.

An official report is expected this fall, he said, following yet another autumn otter census which will be compared with a similar study made a month before the test.

This summer's work, involving researchers from federal, state and university laboratories under contract to the AEC, revealed "a clear pattern of otters coming into the area from both sides," said biologist Schneider.

PREPARING TO LEAVE

While the otters are moving into reclaim their feeding and rearing grounds, the AEC's 300-man work force is packing up and preparing to move off the island the agency has occupied for more than five years and in which it has invested more than $200 million leading up to the Cannikin test.

This month, workmen had begun dismantling the trailer camps which once housed 700 men, reeling in more than 1,000 miles of cable stretched across the tundra, and generally trying to clean up the debris left from AEC's tenancy.

The 200-man camp from which scientists triggered the controversial blast has already been dismantled and trucked 42 miles along the spine of the barren island to Constantine Harbor, where it now awaits shipment to an Air Force radar station at Shemya, 225 miles farther down the Aleutian chain.

But team of biologists and other scientists will keep coming back to Amchitka over the years to check for leaking radioactivity at the AEC's two test sites and another used by the Defense Department in 1965.

MRS. "BUNNY" SEXTON: GREAT FRIEND OF PARALYZED VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, spinal cord injury patients at the Long Beach Veterans' Administration Hospital now will have access to hemodialysis units, thanks to the nearly single-handed efforts of Mrs. Gwendolyn "Bunny" (Mrs. Charles) Sexton. This pioneering effort in hemodialysis treatment at the VA hospital in Long Beach, Calif., is a 5-year research effort to investigate the benefits of hemodialysis for the spinal cord injured.

One patient has already started in this new program, and another will be going on it soon. The 5-year protocol calls for a capacity of 40 patients over the 5-year period, or eight patients a year. Four beds are called for, and four or five machines. The 5-year costs projected in protocol are around $900,000, nearly half of which is to be raised through the efforts of Mrs. Sexton. She is responsible for certain costs for remodeling the rooms, et cetera, and for assuring $406,040 over the 5-year period. This money will go primarily for wages of doctors, technicians, and nurses, and other costs of the hospital's operation of the hemodialysis units. The Veterans' Administration is responsible for contributing approximately $486,798 over the 5 years to pick up the tab on the home-care aspects of the program.

Planning for this hemodialysis program began 2 years ago, and the 5-year research protocol was started soon afterward. First-year funding calls for the donor, Mrs. Sexton, to raise around $65,000. Of this amount, Mr. and Mrs. Sexton have already contributed around $50,000 toward this goal. Mrs. Sexton has been working diligently to raise the additional $15,000 to assure the full funding of this program in its first year. The remodeling has been essentially done, and it is the costs of personnel and equipment that must be met to assure the successful operation of this first year of the program.

Dr. A. Estin Comarr, chief of the spinal cord injury service, has said of Mrs. Sexton's contribution:

A goodly portion of our spinal cord injury patients over the years have succumbed to uremia, secondary to kidney infection. Because of the limited number of hemodialysis

units over the country, both in federal and civilian hospitals, our spinal cord injury patients never had priority for the use of these machines. Mrs. Sexton has seen our patients succumb who perhaps could have had their lives perpetuated at least for some time had these hemodialysis machines been available. Essentially she as a "one man team" set out to see what she could do about having hemodialysis for spinal cord injury patients. Through her efforts, the national consultants group for spinal cord injury to the Veterans Administration assigned me the duty to set up a protocol for a five-year research effort to investigate whether hemodialysis would or would not be beneficial for these patients. . . . Mrs. Sexton and her husband have been the greatest financial supporters but Mrs. Sexton has worked enthusiastically to have other people and organizations to donate such as the Paralyzed Veterans of America and the California Paralyzed Veterans Association, the Veterans Assistance League locally and others.

Prior to the construction of this unit, Mrs. Sexton visited many hemodialysis units both Veterans Administration and private in order to become very knowledgeable. This knowledge helped tremendously in the construction of the present unit. She spent countless hours during the period of its construction with her "know-how". In fact, one would have thought that she was a paid employee. As Chief of the Spinal Cord Injury Service, I do not feel that she can be thanked enough. Most of us feel that at the end of the five years it will have been shown that this undertaking was well worthwhile for our patients but above all the morale among our patients which has been so uplifted, in itself has proven the worthwhileness of this tremendous project which I reiterate was undertaken by a "one man team".

The hemodialysis unit was dedicated on Monday, February 7, 1972, with approximately 300 persons in attendance. After Mrs. Sexton cut the ribbon, the unit was open for investigation by those attending.

The development of this pioneering service for the spinal cord injured is only the most recent contribution by Mrs. Sexton to the veterans in the Los Angeles area. She has been working with spinal cord injury patients for more than a quarter of a century—first in the Birmingham Veterans' Administration Hospital in Van Nuys, Calif., since 1946, and later at Long Beach when that VA hospital was established in 1950. Much of her service has been through the Veterans Assistance League—VALS—an organization of volunteers that has assisted in providing programs and parties for the spinal cord injured as well as gathering money to obtain scientific apparatus for the spinal cord injury service and for related research efforts within the hospital.

The hemodialysis program protocol calls for up to eight patients a year to be trained in the Long Beach VA hospital and to then go home and be able to take care of themselves. The training process involves watching others, observing the hemodialysis treatment for perhaps a period of several months, before a patient is himself put on a machine. Once the process is begun, it must be maintained. Once the decision is made to go on a machine, there is no turning back. If any problems should develop after a patient has gone home that would necessitate his return to the hospital, there would be an extra hemodialysis machine at the hospital and provisions made for his return. These facts point up the essential nature of realizing the funding goals for this program year by year. Donations are still being accepted, payable to the California Paralyzed Veterans Association Hemodialysis Fund, Box 15327, Long Beach, Calif. 90815.

The people of this country and everyone specifically concerned about veterans affairs are greatly indebted to the vision and dedication of Mrs. "Bunny" Sexton, to her husband, and to the faithful service of Dr. A. Estin Comarr with the spinal cord injury service, and I would like to take this opportunity to thank them for all of us.

THE DISTINGUISHED CAREER OF RUSS BLANDFORD

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, for many years John R. Blanford has been a well-known and highly respected figure in the Halls of Congress. As a result of very capable service to the Committee on Armed Services, he became its chief counsel. Now he has retired. We wish him well in retirement but we shall greatly miss his valuable counsel and services.

Russ has been one of the guiding hands in shaping America's military defense posture since he first joined the Armed Services as counsel in 1947. Earlier, he had distinguished himself as an officer in the Marine Corps during World War II and he has continued his active interest in the corps, presently holding the rank of major general, U.S. Marine Corps Reserve.

In his role as chief counsel to armed services, a position he has held since 1963, Russ Blandford, like so many other dedicated Americans, has consistently sought to make America the strongest nation on the face of the earth and to uphold America's ideals despite the efforts of those working from within who would destroy America's traditions as well as take away its military strength.

Russ Blandford has given diligent, unselfish, and patriotic assistance to the committee and Congress throughout his service.

Russ would have been an outstanding leader no matter what career he might have pursued. He is a graduate of the Yale Law School and is admitted to practice before the New York State Bar, the District of Columbia Bar, and the U.S. Supreme Court. Had he elected to stay in the private practice of law he no doubt would have enjoyed the material gains attendant to a lucrative law practice.

But Russ chose instead to enlist in the service of our Nation. He is a man who knows how to make decisions and stand on them, and by dedicated service he emerged as one of Capitol Hill's strong and respected figures.

The value of his service is, of course, measured by the high esteem in which his colleagues held him. However, it is notable that he was awarded the Air Force Distinguished Civilian Service Award in 1972, the Army Legion of Merit, and the Navy Distinguished Public Service Award, also in 1972. He also was presented the Rockefeller Public Service Award in 1966.

Those of us who have enjoyed the honor of working with him have long been aware of the merits possessed by Russ Blandford. We know also of the wonderful help given him through the years by his lovely and talented wife Barbara. For both of them we wish the very best for all that they undertake in the years ahead.

The magazine, Naval Affairs, which is published by the Fleet Reserve Association, carried in its July issue an excellent tribute to Russ Blandford. I submit it for publication in the RECORD:

A TRIBUTE TO A SHIPMATE

To paraphrase "A Tale of Two Cities," our present era is the best of times and the worst of times for military personnel. But presently, military personnel and their families are receiving more earned entitlements than ever before. It is because of this that all military personnel sincerely regret the retirement of John Russell Blandford, Chief Counsel of the House Armed Services Committee on 1 July 1972.

"Russ," as he is known by his associates, joined the House Armed Services Committee staff in January 1947. One need only to look at the increase in military pay and benefits since then to measure his contributions to the welfare of the Armed Forces. No one person can take full credit for all of these personnel compensation improvements. But as knowledgeable people know, Congressional Committee staff personnel research, analyze, document and recommend improvements to the Administration's proposals thus, developing the final legislation the Congress enacts. In fulfilling this role, "Russ" usually improved and increased the benefits of personnel legislation proposed by the Executive branch and then shepherded the amended proposal through House passage.

Shipmate "Russ" (he is an Honorary Member of Annapolis Branch 24) went far beyond the requisites of his job. As a Reserve officer in the Marine Corps, with more than his share of active duty, he knew firsthand the needs of the military man and his family. He labored constantly to assure the needs were more than adequately filled. "Russ" has the rare attributes of being able to plant the seed of an idea, nurture it and ultimately bring the idea to fruition. With the patience of Job he would pursue an idea's growth into a reality and America's servicemen would gain another new benefit.

If we were to list every detail and accomplishment of his ceaseless and beneficial endeavors in our behalf over the past twenty-five years, this magazine would have to be double in size. It is not mere coincidence that under his leadership and direct responsibility active duty basic pay and allowances have increased dramatically since he became the Committee's Chief Counsel in 1963.

Many career government officials are recognized for their dedicated contributions to America. Shipmate "Russ" was so honored in 1966 when he received the coveted Rockefeller Public Service Award for Law and Legislation. To that signal honor Shipmate Blandford can add the sincere appreciation and grateful thanks of millions of military personnel for originating the philosophy "the American Serviceman should enjoy a standard of living equal to that which he defends for others."

This philosophy was the cornerstone of the late Chairman L. Mendel Rivers' personnel policy. Shipmate "Russ" played a key role in assuring the philosophy's transition into "take home" reality.

A wise man once said, "You have not lived a perfect day, even though you have earned your money, unless you have done something for someone who will never be able to repay you."

By that standard, the vast majority of Shipmate Russ' days as a member of the Armed Services Committee's staff were perfect days.

FIFTY YEARS OF SERVICE BY THE ORDER OF AHEPA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, 50 years ago, the Order of Ahepa was founded in Atlanta, Ga., on July 26, 1922.

Since that time, this outstanding organization has been recognized and is widely respected as one of the leading patriotic organizations in the United States. Although it continues its close ties with the people of Greece through war orphan, war relief, and health programs in that beautiful country, the members of the Order of Ahepa have concentrated on programs of direct help to Americans of all national origins. Flood relief in Florida, Missouri, and Mississippi, theological seminaries in the United States, a school for boys in New York, and the Truman Library are just a few of the magnificent programs undertaken by the Order of Ahepa.

The aims of the order are simple: To promote loyalty to the United States, to oppose corruption and tyranny, to promote understanding, and to support education. These are goals worthy of us all.

I am especially proud that in my own congressional district in Florida there are active chapters of AHEPA. In Pensacola, John A. Lioillo is president of the chapter and Petros G. Petrelis is vice president, Demetrious N. Magoulas is secretary, and Michael Gauallas is treasurer. James Petrandis of Panama City is also a local chapter officer. Patric J. Blanos of Pensacola is secretary of the district lodge.

The Order of Ahepa always is due recognition not only for its service to America but because of the close ties it provides between our own country and that stalwart friend, Greece, a nation which has been so loyal to America through all its trials. It is particularly fitting now that the Order of Ahepa be recognized during this golden anniversary year. I am happy to congratulate the leadership and members of AHEPA for their contributions and in particular the fine people of Florida's first district for their own participation in the work of AHEPA.

OVERSEAS MILITARY CREDIT UNIONS SAVE SERVICEMEN MORE THAN $43 MILLION IN INTEREST CHARGES

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, prior to the latter part of 1967, U.S. servicemen stationed abroad who had to borrow money from commercial lending companies were forced to pay interest rates that ranged as high as 70 percent. The most common interest charge was 36 percent a year, even if the loan was fully collateralized.

These were some of the shocking facts uncovered during an investigation by the House Banking and Currency Committee of the financing problems faced by servicemen. As soon as the committee completed its findings it began a campaign to correct the abuses and the first step was to provide servicemen stationed overseas with a low-cost, on-the-spot source of credit. The committee, through the help of the Department of Defense and the then Bureau of Federal Credit Unions, was successful in getting a number of military credit unions in the United States to open suboffices in Germany, England, Italy, Korea, and the Philippines.

In the past, I have reported to the House the success of these credit unions. But, I think the greatest measure of their success can be determined in the amount of money that servicemen have saved by dealing with the credit unions instead of the high-rate finance companies. At the end of October 1971 the 10 overseas credit unions had lent nearly $182 million. By law, these credit unions can charge no more than 1 percent a month on the declining balance, which is equal to an annual percentage rate of 12 percent. However, many of the credit unions charge less than the 12-percent rate, particularly on new car financing. If we consider that all of these loans were made at the 12-percent interest rate, it would mean that the servicemen paid $21.8 million in interest. But, if they had borrowed the same amount of money from the finance companies which charge an average of 36 percent, they would have paid $65.5 million in interest. In simple arithmetic, the credit unions have saved servicemen $43.7 million in interest charges. It should also be remembered that that savings is an annual savings and must be multiplied by the 4-year period that the credit unions have been in operation.

And, of even more significance, is the fact that these credit unions are lending to servicemen from the highest ranking officer to the lowest ranking enlisted man. Overall, the loss experience of the credit unions has been good, although, because of some technical problems in military payroll offices, there have been a number of delays in starting repayments.

Mr. Speaker, while there still are some high-rate finance companies operating overseas, most of them have stopped operation or, because of the competition from the credit unions, have lowered their rates drastically. It is rare now that the Banking and Currency Committee, which at one time received hundreds of letters a month from servicemen complaining about financing problems, receives a letter from a serviceman overseas with such a problem. This can be laid directly to the job being done by the overseas credit unions.

While these credit unions have directly helped the servicemen, they have also indirectly been of great benefit to our military services. As Members of this body know, there is a push to establish an all-Volunteer Army. But a serviceman who is deep in debt is not a good prospect for reenlistment. The overseas credit unions have helped a great many servicemen to get out of debt and increase their likelihood of reenlistment. While we have no figures to show exactly how effective the credit unions have been in the reenlistment program, we can only surmise that because of the lack of complaints from servicemen about financing problems, that the credit unions have been extremely effective in controlling debt problems and thus increasing the likelihood of reenlistment. Mr. Speaker, every month Gen. Evert Thomas, executive secretary of the Defense Credit Union Council, sends to me and several other members of the Banking and Currency Committee a report on the operations of the overseas credit unions, including a listing by rank of the number of loans made by each credit union during that month. I am including in my remarks the latest report which clearly shows the credit unions are providing service to everyone and that this service is being used.

The report follows:

DEFENSE CREDIT UNION COUNCIL,
Washington, D.C., December 20, 1971.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The following progress report concerning the operations of credit union sub-offices in Germany, England, the Philippine Islands, Korea, and Italy is submitted for your information.

Andrews Federal Credit Union began operations at Wiesbaden on 11 March 1968. As of 30 November this sub-office had acquired 31,288 members, made loans in the amount of $41,401,293.26, and received share deposits in the total amount of $21,209,128.15. During the month of November, 1,032 loans were made to military personel. These loans were distributed by pay grade as follows:

E–2	1
E–3	80
E–4	250
E–5	345
E–6	161
E–7	60
E–8	16
E–9	7
W–1	1
W–2	8
W–3	1
O–1	6
O–2	23
O–3	52
O–4	15
O–5	5
O–6	1

Fort Belvoir Federal Credit Union began operations at Wurzburg on 1 February 1968. As of 30 November this sub-office had acquired 4,857 members, made loans in the amount of $6,614,783.51, and received share deposits in the total amount of $471,909.27. During the month of November, 205 loans were made to military personnel. These loans were distributed by pay grade as follows:

E–3	8
E–4	39
E–5	74
E–6	49
E–7	11
E–8	5
O–1	1
O–2	7

O–3	10
W–2	1

Pease AFB Federal Credit Union began operations at Ramstein on 15 January 1968. It has since opened sub-offices at Baumholder, Bitburg, and Pirmasens. As of 30 November these sub-offices had acquired 38,532 members, made loans in the amount of $34,397,484.00, and received share deposits in the amount of $13,675,406.00. During the month of November these sub-offices made 1,010 loans to military personnel. These loans were distributed by pay grade as follows:

E–2	11
E–3	195
E–4	261
E–5	252
E–6	187
E–7	48
O–1	41
O–2	15

Lackland AFB Federal Credit Union began operations in Berlin on 26 December 1967. As of 30 November this sub-office had acquired 2,461 members, made loans in the total amount of $887,748.22, and received share deposits in the amount of $2,432,847.82. During the month of November this sub-office made 200 loans to military personnel and these loans were distributed by pay grade as follows:

E–3	27
E–4	67
E–5	47
E–6	30
E–7	13
E–8	1
O–1	2
O–2	4
O–3	6
O–4	2
O–5	1

Redstone Federal Credit Union began operations in the Mannheim-Stuttgart area on 15 February 1968. It has since opened a sub-office at Heidelberg. As of 30 November these sub-offices had acquired 24,578 members, made loans in the amount of $28,319,516.00, and received share deposits in the amount of $6,013,906.00. During the month of November these sub-offices made 359 loans to military personnel and these loans were distributed by pay grade as follows:

E–3	11
E–4	57
E–5	139
E–6	67
E–7	28
E–8	4
W–2	9
W–3	2
W–4	1
O–1	5
O–2	9
O–3	17
O–4	8
O–6	2

Finance Center Federal Credit Union began operations at Furth on 15 February 1968. It has since opened sub-offices at Bamberg and Ansbach. As of 30 November these sub-offices had acquired 14,590 members, made loans in the amount of $9,957,683.65, and received share deposits in the amount of $3,371,471.65. During the month of November these sub-offices made 212 loans to military personnel and these loans were distributed by pay grade as follows:

E–3	6
E–4	25
E–5	53
E–6	45
E–7	15
E–8	4
W–2	8
O–1	5
O–2	19
O–3	28
O–4	3
O–5	1

Keesler AFB Federal Credit Union began operations at Lakenheath, England on 15 November 1968. It has since opened sub-offices at South Ruislip, Bentwater, RAF Alconbury, and Upper Heyford. As of 30 November these sub-offices had acquired 12,471 members, made loans in the amount of $17,493,306.04, and received share deposits in the amount of $2,221,167.57. During the month of November these sub-offices made 995 loans to military personnel and these loans were distributed by pay grade as follows:

E–2	27
E–3	128
E–4	292
E–5	270
E–6	130
E–7	55
E–8	12
E–9	5
O–2	10
O–3	50
O–4	12
O–5	3
O–6	1

Barksdale AFB Federal Credit Union began operations at Clark Air Base in the Philippine Islands on 20 December 1968. As of 30 November this sub-office had acquired 23,007 members, made loans in the amount of $19,076,826.87, and received share deposits in the amount of $13,682,158.77. During the month of November this sub-office made 1,009 loans to military personnel and these loans were distributed by pay grade as follows:

E–1	1
E–2	24
E–3	181
E–4	299
E–5	280
E–6	103
E–7	43
E–8	7
E–9	1
O–1	4
O–2	11
O–3	42
O–4	10
O–5	3

San Diego Navy Federal Credit Union began operations at Seoul, Korea on April 1, 1969. It has since opened sub-offices at Taegu, Camp Casey, Osan AFB, 2d Division, and Kunsan. As of 30 November these sub-offices had acquired 34,782 members, made loans in the amount of $15,710,507.99, and received share deposits in the amount of $6,395,743.36. During the month of November these sub-offices made 984 loans to military personnel and these loans were distributed by pay grade as follows:

E–2	18
E–3	194
E–4	261
E–5	198
E–6	88
E–7	82
E–8	32
E–9	3
W–1	1
W–2	15
W–3	2
W–4	1
W–2	15
W–3	2
W–4	1
O–1	2
O–2	16
O–3	41
O–4	22
O–5	7
O–6	1

Fairchild AFB Federal Credit Union began operations at Aviano Air Force Base, Italy on May 19, 1969. It has since opened sub-offices at Vicenza and Camp Darby. As of 30 November these sub-offices had acquired 5,562 members, made loans in the amount of $8,077,840.55, and received share deposits in the amount of $3,137,862.05. During the month of November these sub-offices made 371 loans to military personnel and these loans were distributed by pay grade as follows:

E–2	3
E–3	71
E–4	107
E–5	91
E–6	39
E–7	28
E–8	10
E–9	2
W–1	3
O–1	3
O–2	2
O–3	8
O–4	3
O–5	1

As of 30 November 1971 the sub-offices had signed up 192,128 members, received share deposits in the amount of $72,611,600.58, and made loans in the amount of $181,936,990.09.

Respectfully,

EVERT S. THOMAS, Jr.,
Brigadier General U.S. Army (retired),
Executive Secretary.

IMPORTANT EFFORT TO CURB BANKS' COLLECTION OF UNFAIR INTEREST

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, in the most recent issue of the new magazine World is a very interesting article dramatically illustrating what one highly principled, courageous and concerned person can do to stop an outrageous business practice which costs the American people millions of dollars a year in overcharge.

This particular case involves the use of a misleading and long outdated practice for calculating interest rates which many banks have used to extract interest payments beyond what they state the interest rate is, and what they are entitled to.

Unfortunately, there are many other devices being practiced against the American people today that should also be eliminated. Hopefully, Harold Perlman's example will inspire other public spirited individuals to undertake vigorous efforts such as his to stop such nefarious practices.

I include at this point in the RECORD the article concerning Mr. Perlman's legal efforts as it appears in the July 18, 1972, issue of World magazine:

WHAT CAN ONE PERSON DO?

(By Richard L. Tobin)

INTEREST: COMPOUND FRACTURE

Early in July 1970, Harold Perlman, a Chicago lawyer and businessman, received, paid, but questioned an interest bill from his bank. This was the beginning of what has since become a one-man crusade that could save the American people hundreds of millions of dollars in their dealings with banks.

Very simply, what Mr. Perlman discovered was that many banks have a double standard in computing interest. When they *borrow*, they *pay* interest on a 365-day year. When they *lend*, however, they *collect* on the basis of a 360-day year, increasing their profit about .014 per cent per year.

Perlman asked the bank what justification it had for arbitrarily computing his annual interest on a 360-day year. The bank replied that this was the way banks had always done business—and always would.

When the bank offered to refund the overcharge on condition that he cease doing business with it, Perlman, a Harvard-trained lawyer, decided to do battle. On August 31, he filed an historic action in the Circuit Court in Illinois in behalf of himself and other borrowers from the First National Bank of Chicago, one of the ten most powerful banks in the country.

This overcharge had come about by the bank's simply, and without disclosure, substituting a 360-day year in the basic mathematical formula for computing interest.

This is the way the banks work. The formula for computing interest is this. Interest = Principal × Rate × Time, time being the number of days money is borrowed (I=P×R×T). Assume, for example, a loan of $7,300 for one year with a promissory note providing that interest is payable at the rate of 5 per cent perannum. The exact interest equals P or $7,300 × R or 5/100 × T or 365 days money is used/365 days in calendar year.

By substituting, without disclosure, a bobtailed year of 360 days in the denominator of the formula 365/360, instead of 365/365 or $370.11, banks, not as dramatically but more effectively than Dillinger, have snatched a nickel here and a dollar there, aggregating millions of dollars a year. This formula substitution always costs the borrowers more, but curiously, when banks are borrowers, as from a Federal Reserve Bank, or from depositors, and are paying instead of collecting interest, they shift from a 360-day year to the normal calendar year of 365 days.

Although the Supreme Court of Vermont, as far back as 1829, called this practice "evil," it had seldom been seriously contested until August 31, 1970, when Perlman filed his action. In October 1970, Congressman Wright Patman, Chairman of the House Committee on Banking and Currency, was shocked when he was informed by Perlman of this banking practice and requested the Federal Reserve System to conduct a survey of banks and their methods of computing interest. When Mr. Patman issued the results of the survey and a statement in connection therewith, the American Bankers Association at first denied the facts in Patman's statement, but later formally apologized.

What has Perlman accomplished so far in eliminating a shabby practice which Congressman Patman estimates takes $145-million a year from the American public? Here are four specific results:

1) On April 20, 1972, Judge Donald J. O'Brien, head of the Chancery Division of the Circuit Court of Cook County, sustained Perlman's class action by denying the bank's motion to dismiss on the pleadings. The case will be appealed, but already many banks in Chicago and elsewhere have since either eliminated the practice or disclosed its intended use.

2) In December of 1971, an Oregon case was won in the Federal Court. The decision of Judge Alfred T. Goodwin too, is on appeal, but the First National Bank of Oregon and other banks in Oregon have given up the practice.

3) Suits, with Perlman's cooperation, have been filed in the states of Washington, California, and Arizona, and counsel in many others are contemplating same.

4) Legislation is being planned by Congress.

The elimination of this unfair practice has a deeper significance to Perlman than the dollars and cents involved. Perlman is an exceptionally active lawyer and entrepreneur. In 1955, in the famous case of *Perlman v. Feldmann*, he helped establish the law declaring it illegal to sell a controlling block of corporate stock at a premium unless the same price was paid to minority shareholders.

He is currently building the Perlman Institute of Chemical Sciences, a $3-million project at the Weizmann Institute of Science, in Israel, in memory of his parents. The transmission facilities for educational television in Chicago are known as the Perlman Transmission Center. He has been the chairman of many fund-raising campaigns and is on numerous boards, industrial and charitable.

What is the deeper significance to this busy man? He is intrigued, for example, as to why U.S. banks have engaged in this practice and Canadian and European banks have not. Do our banks have less rectitude and are they less professional? The practice originated more than 175 years ago when mechanical tabulating equipment was nonexistent, and the 360-day year enabled the banks' bookkeepers to compute interest for small loans more quickly, for periods of time shorter than a month. Why did the practice spread in the United States but not in other countries, to larger loans and longer periods of time long after the development of mechanical and electronic calculating equipment? Is it an inevitable attribute of power, whether exercised by banks, labor unions, car manufacturers, or political leaders, to sanction shoddy quality and productivity? Perlman does not think so.

To Perlman, his particular case with the First National Bank of Chicago is a classic example of how the rarefied atmosphere of unbridled power vested in or usurped by any executive, whether it be a bank or a country, creates an aura of infallibility that blurs basic concepts of fairness and impairs good judgment.

And to Perlman, this particular case has its humor, too, for if the bank had acknowledged the overcharge of $145.83, he would not have been precipitated into the investigation and elimination of a practice that currently takes $145-million a year from the American public, and that in the course of 175 years must have taken billions.

PRESIDENT NIXON SHOULD RELEASE IMPOUNDED WATER AND SEWER FUNDS

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, I challenge President Nixon to release $500 million impounded by the Budget Bureau for water and sewer plants.

After the Republican-engineered defeat of our committee's $5-billion community facilities bill last Wednesday, it is imperative that the President take some kind of positive action to assure local communities that there is some hope left that they can build the necessary water and sewer treatment plants to protect the health of their citizens. The President should release the $500 million which has been impounded by his Budget people to correct the serious and politically inspired actions of the Republican leaders in the House of Representatives in killing the legislation last Wednesday night.

Mr. Speaker, the charge of "politics" leveled against the community facilities bill by the Republican leaders was a "gross insult" to the thousands of local communities that have filed applications for funds under the water and sewer programs at the Department of Housing and Urban Development.

These mayors and city councilmen and county officials are Republicans and Democrats and in many cases, nonpartisan officeholders, and I do not think that their applications represent "politics" as charged by the Republicans on the floor last Wednesday. These applications, which represent a backlog of $12 billion of needs for water and sewer plants, were filed by these local officials to correct serious health and economic problems and I challenge the Republican opponents of this legislation to show a single application which is based on politics and not need.

It is ironic that one arm of the administration—the Environmental Protection Agency—is filing suits against local communities for failure to meet water standards while President Nixon and his Republican leaders in the House are opposing legislation to provide the funds necessary for these communities to comply with the law.

On the one hand, the President is in the position of claiming great action against pollution, while, on the other hand, withholding funds and actually impounding the money at the Bureau of the Budget. This is outright political deceit which destroys the faith of people in their Federal Government.

Mr. Speaker, the environmental lawsuits filed against New York and New Jersey cities last week plainly establish the tremendous health hazards being created by untreated sewage. New York City is discharging at least 350 million gallons of raw sewage a day into the Hudson River, N.Y., Harbor and adjoining waters. Similar situations exist in New Jersey and there have been no major improvements in the Newark sewage treatment plant since 1924. These are the kinds of conditions which the Republican leaders in the House endorsed through their actions of last week in killing the water and sewage bill.

These conditions exist all over the Nation in small and large communities and the very health of the Nation is threatened by political game playing on the floor of the House. Economic revitalization of local communities is also threatened by the defeat of the bill. Many local communities cannot attract industry and cannot retain existing businesses without the development of water and sewage treatment plants.

Mr. Speaker, this means that unemployment and underemployment will further increase in many of these communities as well as the health hazards. In addition to providing important pollution abatement, this bill would have created hundreds of thousands of jobs in the construction of new facilities and hundreds of thousands of other jobs in allied industries. This fact did not impress our Republican friends.

It was absurd for the opponents of the bill to argue that there were adequate funds available to local communities for water and sewer facilities.

These statements were based either on abysmal ignorance or were a deliberate attempt to throw up a smokescreen to defeat the bill. The Republican leaders ignored the fact that the hearing record on this legislation contained 929 pages of applications from local communities for

the very funds which were defeated last week. Do the Republican leaders believe that these are false applications and that these communities are filing them just for the fun of filling out another form?

If the funds were available from other programs, as the Republicans had stated on the floor, then surely these local communities would not be filing these applications with HUD, and HUD would not be turning them down for a lack of money.

Mr. Speaker, I have been besieged by local communities all over the Nation with requests for help and the hearing record was filled with testimony from city and county officials attesting to the need for legislation which was defeated.

I hope that President Nixon will review the situation immediately and, despite the potential embarrassment to the Republican leaders in the House, take action to help these local communities.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ROYBAL (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. CAMP (at the request of Mr. GERALD R. FORD), for July 24–25, on account of official business.

Mr. HEINZ (at the request of Mr. GERALD R. FORD), for today, on account of official business.

Mr. PEPPER (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. ROONEY of New York (at the request of Mr. O'NEILL), for the week of July 24, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. MICHEL, for today, for 15 minutes, to revise and extend his remarks, and to include extraneous matter.

(The following Members (at the request of Mr. WHITEHURST) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. HANSEN of Idaho, for 10 minutes, today.

(The following Members (at the request of Mr. MAZZOLI) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 10 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

Mr. ADAMS, for 5 minutes, today.

Mr. HENDERSON, for 5 minutes, today.

Mr. DAVIS of South Carolina, for 20 minutes, today.

Mr. REUSS, for 60 minutes, today.

Mrs. ABZUG, for 10 minutes, today.

Mr. DANIELSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MADDEN, and to include an editorial.

Mr. DON H. CLAUSEN to extend his remarks on House Resolution 1024.

(The following Members (at the request of Mr. WHITEHURST) and to include extraneous material:)

Mr. TERRY.

Mr. BURKE of Florida.

Mr. KEATING in five instances.

Mr. STEELE in six instances.

Mr. STEIGER of Wisconsin in two instances.

Mr. SPRINGER.

Mr. DERWINSKI in two instances.

Mr. WYMAN in two instances.

Mr. BUCHANAN in two instances.

Mr. HOSMER in two instances.

Mr. WHITEHURST in two instances.

Mr. BROWN of Ohio in two instances.

Mr. MCKINNEY.

Mr. BRAY in three instances.

Mr. LLOYD.

Mr. BOB WILSON in two instances.

Mr. BROOMFIELD.

Mr. ESCH.

Mr. GOLDWATER.

Mr. ZWACH.

Mr. WYATT.

Mr. FISH.

Mr. WYDLER.

Mr. DUNCAN.

Mr. HALPERN in three instances.

Mr. SCHMITZ in five instances.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous material:)

Mr. BLANTON.

Mr. MCCORMACK.

Mr. REUSS in six instances.

Mr. BADILLO in three instances.

Mr. RARICK in three instances.

Mr. GONZALEZ in three instances.

Mr. PUCINSKI in 10 instances.

Mr. STOKES in two instances.

Mr. GRIFFIN in two instances.

Mrs. HICKS of Massachusetts in two instances.

Mr. FISHER in three instances.

Mr. EDWARDS of California in two instances.

Mr. ALBERT.

Mr. WALDIE.

Mr. REES.

Mrs. GRASSO in five instances.

Mr. ABOUREZK in five instances.

Mr. HUNGATE in two instances.

Mr. FUQUA.

Mr. SYMINGTON.

Mr. WOLFF in three instances.

Mr. JACOBS.

Mr. SLACK.

Mr. MURPHY of Illinois in two instances.

Mr. DENT.

Mr. DE LA GARZA in six instances.

Mr. BENNETT in two instances.

Mr. ROGERS in two instances.

Mr. HICKS of Washington.

Mr. MURPHY of New York.

Mr. ROSENTHAL in five instances.

Mr. BRASCO.

Mr. THOMPSON of New Jersey.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3824. An act to authorize appropriations for the fiscal year 1973 for the Corporation for Public Broadcasting and for making grants for construction of noncommercial educational television or radio broadcasting facilities, to the Committee on Interstate and Foreign Commerce.

S.J. Res. 254. Joint Resolution to authorize the printing and binding of a revised edition of Senate Procedure and providing the same shall be subject to copyright by the author; to the Committee on House Administration.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p.m.) the House adjourned until tomorrow, Tuesday, July 25, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2189. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a listing a contract award dates for the period July 15 to October 15, 1972, pursuant to section 506 of Public Law 92–156; to the Committee on Armed Services.

2190. A letter from the Secretary of Transportation, transmitting the annual report on the financial condition of the Central Railroad Co. of New Jersey, pursuant to section 10 of the Emergency Rail Services Act of 1970; to the Committee on Interstate and Foreign Commerce.

2191. A letter from the Governor of the Canal Zone, transmitting a draft of proposed legislation to expand the authority of the Canal Zone Government to settle claims not cognizable under the Tort Claims Act; to the Committee on Merchant Marine and Fisheries.

RECEIVED FROM THE COMPTROLLER GENERAL

2192. A letter from the Comptroller General of the United States, transmitting a report on the theory and practice of cost estimating for major acquisitions in the Department of Defense; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EDWARDS of California: Committee of conference. Conference report on H.R. 11350; (Rept. No. 92–1233). Ordered to be printed.

Mr. ASPINALL: Committee of conference. Conference report on H.R. 13435; (Rept. No. 92–1234). Ordered to be printed.

Mr. ASPINALL: Committee on conference. Conference report on S. 3284; (Rept. No. 92–1235). Ordered to be printed.

Mr. MCMILLAN: Committee on the District of Columbia. H.R. 15550. A bill to convey to the city of Alexandria, Va., certain lands of the United States, and for other purposes; (Rept. No. 92–1236). 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. ASHLEY (for himself, Mr. ST GERMAIN, and Mr. REES):

H.R. 15989. A bill to establish a Council on International Economic Policy, to extend the Export Administration Act of 1969, and for other purposes; to the Committee on Banking and Currency.

By Mr. BENNETT:

H.R. 15990. A bill to amend the Internal Revenue Code of 1954 to eliminate the oil and gas depletion allowance; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 15991. A bill to provide for procedures to expedite the issuance and payment to officers and employees of the Federal Government of substitute pay checks in replacement of lost, stolen, destroyed, mutilated, or defaced pay checks originally issued to such officers and employees; to the Committee on Post Office and Civil Service.

H.R. 15992. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes; to the Committee on Veterans' Affairs.

H.R. 15993. A bill to amend the Internal Revenue Code of 1954 to subject Federal land banks and Federal land bank associations to the taxes imposed by such code; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia (for himself and Mr. HOGAN):

H.R. 15994. A bill to exempt bus companies in the District of Columbia from payment of the motor vehicle fuel tax; to the Committee on the District of Columbia.

By Mr. HARSHA:

H.R. 15995. A bill to amend the Railroad Retirement Act of 1937 to provide a temporary 20-percent increase in annuities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 15996. A bill to provide for the striking of medals in commemoration of the 500th anniversary of the birth of Nicolaus Copernicus (Mikolaj Kopernik); to the Committee on Banking and Currency.

By Mr. KING (for himself, Mr. STRATTON, Mr. TEAGUE of Texas, Mr. KYL, Mr. SAYLOR, and Mr. ASPINALL):

H.R. 15997. A bill to designate the Federal office building to be constructed in Albany, N.Y., as the Leo W. O'Brien Federal Building; to the Committee on Public Works.

By Mr. McCLURE (for himself and Mr. HANSEN of Idaho):

H.R. 15998. A bill to amend the admission act for the State of Idaho to permit that State to exchange certain public lands and to use the proceeds derived from public lands for maintenance of those lands; to the Committee on Interior and Insular Affairs.

By Mr. PATMAN:

H.R. 15999. A bill to authorize construction to develop heavy airlift capability in support of Red River Army Depot, Tex.; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE of Illinois (for himself, Mr. ANDERSON of Illinois, Mr. ARENDS, Mr. BRADEMAS, Mr. DERWINSKI, Mr. BRAY, Mr. COLLINS of Illinois, Mr. PUCINSKI, Mr. SHIPLEY, Mr. KLUCZYNSKI, Mr. METCALFE, Mr. GRAY, Mr. ERLENBORN, Mr. RAILSBACK, Mr. LANDGREBE, Mr. WINN, Mr. THONE, Mr. McCOLLISTER, Mr. COLLIER, Mr. HILLIS, Mr. MAYNE, Mr. CARLSON, Mr. SCHWENGEL, Mr. SPRINGER, and Mr. CARNEY):

H.R. 16000. A bill granting the consent of Congress to the Midwest Interstate Nuclear Compact, and for related purposes; to the Committee on the Judiciary.

By Mr. QUIE:

H.R. 16001. A bill: Newsmen's Privilege Act of 1972; to the Committee on the Judiciary.

By Mr. ROONEY of Pennsylvania (for himself, Mr. WARE, Mr. MORGAN, Mr. SAYLOR, Mr. NIX, Mr. COUGHLIN, Mr. GAYDOS, Mr. SCHNEEBELI, Mr. JOHNSON of Pennsylvania, Mr. McDADE, Mr. FLOOD, Mr. BARRETT, Mr. YATRON, Mr. DENT, Mr. BYRNE of Pennsylvania, Mr. MOORHEAD, and Mr. HEINZ):

H.R. 16002. A bill to authorize the Secretary of Transportation to make loans to certain railroads in order to restore or replace essential facilities and equipment damaged or destroyed as a result of natural disasters during the month of June 1972; to the Committee on Interstate and Foreign Commerce.

By Mr. ROUSH:

H.R. 16003. A bill to amend the act entitled "An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes," approved November 5, 1966; to the Committee on Interior and Insular Affairs.

By Mr. STAGGERS (for himself and Mr. SPRINGER):

H.R. 16004. A bill to transfer to the Secretary of Commerce certain functions of the Secretary of the Interior relating to encouraging, promoting and developing travel within the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BOB WILSON (for himself and Mr. RANDALL):

H.R. 16005. A bill to amend the Strategic and Critical Materials Stock Piling Act and for other purposes; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HICKS of Washington:

H.R. 16006. A bill for the relief of Day's Sportswear, Inc.; to the Committee on the Judiciary.

H.R. 16007. A bill for the relief of Day's Sportswear, Inc.; to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 16008. A bill to authorize R. Edward Bellamy, Ph. D., a retired officer of the Commissioned Corps of the U.S. Public Health Service to accept employment by the Canadian Department of Agriculture; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

261. The SPEAKER presented a petition of the Board of County Commissioners, Palm Beach County, Fla., relative to Federal-State revenue sharing; to the Committee on Ways and Means.

SENATE—*Monday, July 24, 1972*

The Senate met at 10 a.m. and was called to order by Hon. FRANK E. MOSS, a Senator from the State of Utah.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God and Father of mankind, in Thy presence and with glad hearts we welcome the duties and challenges of the new week. In this hallowed moment, when all hearts are hushed before Thee, prepare us to approach our tasks with high vision, quiet confidence, and clear minds. Into Thy hands we commit our spirits beseeching Thee to work Thy will in and through us.

Quicken our love for America, that above all defects and failures, we may see the shining glory of our heritage and the bright promise of a new and better age for the Republic.

Grant us here a full measure of Thy grace that we may be just and kind and true, workmen for Thee, and servants of the common good.

Through Jesus Christ, Master Workman, and ever present Lord. Amen.

APPOINTMENT OF 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., July 24, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Frank E. Moss, a Senator from the State of Utah, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. MOSS thereupon took the chair as Acting President pro tempore.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of July 20, 1972, Mr. SPARKMAN, from the Committee on Foreign Relations, reported favorably, without amendment, on July 21, 1972, the joint resolution (S.J. Res. 241) authorizing the President to approve an interim agreement between the United States and the Union of Soviet Socialist Republics, and submitted a report (No. 92–979) thereon, which was printed.

EXECUTIVE REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of July 20, 1972, Mr. SPARKMAN, from the Committee on Foreign Relations, reported favorably, without reservation, on July 21, 1972, Executive L, 92d Congress, second session, a treaty between the United States of America and the Union of Soviet Socialist Re-