amendment No. 952 by the Senator from North Carolina (Mr. ERVIN). There will unquestionably be a rollcal vote also on that amendment.

Following disposition of amendment No. 952, the Senate will proceed to consider amendment No. 950 offered by the Senator from North Carolina (Mr. ERVIN). The time limitation on that amendment is 30 minutes. Indubitably that amendment will also require a yea and nay vote.

The final disposition, may I say, of the unfinished business will occur at no later than 2 p.m. tomorrow. Several rollcall votes are, therefore, in the offing and Senators are requested to be present.

ADJOURNMENT TO 9:30 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:10 p.m. the Senate adjourned until tomorrow, Wednesday, March 1, 1972, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 29, 1972:

CIVIL AERONAUTICS BOARD

Whitney Gilliland, of Iowa, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1977.

HOUSE OF REPRESENTATIVES—*Tuesday, February 29, 1972*

The House met at 12 o'clock noon.

Rev. Charles W. Hoemig, pastor of Holy Trinity Lutheran Church, Littleton, Colo., offered the following prayer:

For a moment, O Lord, may we be still and listen to Your voice.

So many things demand our attention. May Your words ring in our ears: "Seek first the kingdom of God."

Old values we cherished are being pushed aside. Remind us again that "if the foundations be destroyed, what shall the righteous do?"

Everywhere there is suspicion, and hate, and dissension. Open our ears to Your word that we should love our neighbor, whoever and wherever he might be.

May we know that You are the only hope for a troubled world. Strengthen us with Your power; inspire us with Your wisdom; sustain us with Your blessing. Help others to see through us to You. 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 without amendment a bill of the House of the following title:

H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets Nos. 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes.

APPRECIATION TO PASTOR CHARLES W. HOEMIG

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

Mr. BROTZMAN. Mr. Speaker, I would like to take this opportunity to express our deep appreciation to Pastor Charles Hoemig for offering the prayer today in the House of Representatives.

Pastor Hoemig is the senior pastor of the Holy Trinity Lutheran Church in Littleton, Colo., one of the fine cities in the Second District which I have the privilege of representing in this body. Before coming to Littleton, Pastor Hoemig served pastorates in Arvada, Colo., and Diamond Bar, Calif. Originally, Pastor Hoemig came from Fort Wayne, Ind.

While in Colorado, Pastor Hoemig has been active in civic affairs, as indicated by his recent service as president of the Littleton Kiwanis Club and president of the Metropolitan Denver Chapter of the Leukemia Society of America. In fact, he recently received the Vickie Franzen and John F. Hiatt awards for his outstanding leadership in the Leukemia Society of America.

Mr. Speaker, I am pleased that Pastor Hoemig was able to open our session today, and I am sure I speak for all of my colleagues in expressing the hope that he and his splendid family will be able to be with us again the near future.

SERIOUS QUESTIONS ABOUT CONSIDERATION OF BILLS FROM WAYS AND MEANS COMMITTEE UNDER UNANIMOUS CONSENT

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

Mr. PATMAN. Mr. Speaker, I want to raise some serious questions about the consideration of these bills from the Ways and Means Committee under unanimous consent.

First. No hearing record exists for any of the 22 bills.

Second. Some of the bills—such as H.R. 7025, dealing with common trust funds by holding company banks—involve basic policy decisions which cannot be adequately considered under these procedures.

Third. Many of the bills involve complex questions which cannot be answered without hearings.

Fourth. The House cannot judge the impact of these measures unless an opportunity is given for public witnesses to testify.

Fifth. The reports do not—in all cases—fully comply with rule XIII requiring specific statements of the effect on revenue and the costs of administration.

In conclusion, Mr. Speaker, there is no need for unanimous-consent requests since the Ways and Means Committee apparently will be considering broad tax reform measures later this session as indicated in the debate on the debt ceiling earlier this year. All of these measures could be considered at that time and reported to the floor with a hearing record.

IRONY IS A CONSTANT PRESSURE

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

Mr. ANNUNZIO. Mr. Speaker, in February 1947, Father Pat O'Connor, a member of the Columbian Missionary Order, visited General Chou En-lai on behalf of the Catholic press of the world. They discussed the religious persecutions then taking place. Chou at first denied such persecutions, masking it as land reform difficulties. But before the interview ended, Chou assured Father O'Connor that directives would be sent to insure that religious freedom would be respected.

Perhaps the directives were sent, but history knows that religious freedom was not respected, and that persecution continued until religion was virtually eliminated, and shortly thereafter no press, let alone a religious press, was allowed to ask such questions.

I wonder how similar is the statement in the joint communique issued yesterday that "China will never be a superpower and it opposes hegemony and power politics of any kind."

How can a nation with the atomic bomb and 800 million obedient people not be a superpower? How can a nation which involves itself in ideological "wars of liberation" across the face of the globe not be engaged in power politics? And how can a government which expresses its wish for the thoughts of Mao to rule the world be not desirous of sovereignty over other countries?

Now, I realize it is unfashionable, if not impolite, to accuse a new-found friend of dishonesty. So I will not do that. I only express my wonderment—and my fervent hopes to the contrary—whether my grandchildren, having watched or experienced the actual practice of those statements, will not be able to detect the irony of that statement more clearly than we can, just as we appreciate the irony of the promise to insure religious freedom.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

BILLS FOR CONSIDERATION FROM COMMITTEE ON WAYS AND MEANS

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

Mr. ASPIN. Mr. Speaker, I commend the gentleman from Texas (Mr. PATMAN) for his remarks. I agree with him that the bills to be brought before us under unanimous consent, the bills from the Committee on Ways and Means, represent a disaster. I am very happy the gentleman from Texas has given his remarks. I concur with them completely.

While I believe that some of these bills, 15 of the 22 should be passed, I believe the timing is disastrous. To bring these bills up at this time when we are discussing tax reform could not be worse, and I commend the gentleman from Texas for an outstanding statement.

Does the gentleman from Texas wish additional time?

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

Mr. ASPIN. I should like to yield to the gentleman from Texas, who wanted some more time.

Mr. PATMAN. Yes. I appreciate the gentleman's remarks.

These bills contain broad questions of basic public policy as well as parliamentary procedure of a representative government, which we are proud to claim as our own. We must not have bills like this, with no hearings, no adequate reports, no compliance with rules like the Ramseyer rule and all the rest.

The Government now is paying as much as $77 million annually by reason of passage of just such bills as this, and Members of Congress do not know how far-reaching they are and what they will do. It is costing us billions and billions of dollars.

I believe now is the time we must stop this procedure. I expect to go forward on trying to stop it.

I have no personal feelings against any Member of the House or any Member who has a bill. It is not a matter of personalities. It is a matter of complying with the rules, and allowing the people of the Nation to know, and the Members of Congress in particular to know, that certain bills are going to be taken up at a certain time.

MADISON SQUARE BOYS CLUB OF NEW YORK

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

Mr. CAREY of New York. Mr. Speaker, I am a little surprised to learn and to witness that some of my friends who are interested in reform of this body, for the expeditious handling of the people's business, do not see fit to rely on the probity in authorship of bills which specifically try to cure redtape and inequities in our tax system.

I hope those who are raising objections will take some pleasure in knowing that the delay of a bill which I am sponsoring here will deprive the Madison Square Boys Club of New York of three-quarters of a million dollars left to them in an estate, where a technicality of the tax law has thus far deprived the boys club of that money. They will not get their summer camp. They will not get their neighborhood play activities. They will not get all of the good things that the club does for poor boys, because someone sees fit to delay a procedure historical in this House, changing an unintentionally adverse tax law. This is a case where both parties of the House in committee as well as the Treasury Department, find that a fluke of the tax law works an inequity. Why should we haggle over such a change?

POINTS OF ORDER

(Mr. GROSS asked and was given permission to address the House for 1 minute.)

Mr. GROSS. Mr. Speaker, first of all I want to welcome the gentleman from Texas (Mr. PATMAN) to that small club in the House that expresses concern over bills that are brought to the floor subject to points of order for failure, among other things, for failure to conform to the Ramseyer Rule. It seems to be a newfound enterprise on the part of the gentleman from Texas to take exception to these bills here today.

I would like to ask the gentleman, was it his purpose to serve notice on the House in the remarks he has made that all of the bills to be called up under unanimous consent this afternoon will be objected to by the gentleman?

Mr. PATMAN. Within my ability to do so and my ability to be present when they are called.

Mr. GROSS. Well, there are some 20 bills. I assume that the gentleman will be able to spend that much time on the floor objecting.

Mr. PATMAN. To these particular ones.

Mr. GROSS. I just wanted to ask the distinguished gentleman from Texas what the program for the afternoon would be.

CONSTITUTIONAL AMENDMENT ON BUSING

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

Mr. DOWNING. Mr. Speaker and colleagues, a subcommittee of the House Committee on the Judiciary is in its second day of hearings on antibusing legislation and on an antibusing constitutional amendment. It is apparent to me that the committee is considering legislation more than a constitutional amendment. In my opinion, legislation will not do the job that 80 percent of the American people want done. I think it is going to take a constitutional amendment.

My purpose in speaking today is to urge you not to drop the constitutional amendment route because I believe this just might be the ultimate solution. So I urge all Members who have not signed discharge petition No. 9 please to do so. If legislation is the answer and the Supreme Court upholds that, fine, we can always abandon the constitutional amendment approach, but I urge you to sign the discharge petition so that we can have both of these avenues available to us at the same time.

THE PRESIDENT'S TRIP TO CHINA

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

Mr. O'NEILL. Mr. Speaker, I address my remarks to the minority leader and the minority whip in view of the fact that the minority leader appeared on television last evening and I presume he has conferred with the President since his trip to China.

Was the Vietnam war or the prisoners of war brought up in the discussions with the President, and have we sold out Taiwan or have we not sold out Taiwan.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. O'NEILL. I will be happy to yield to the gentleman.

Mr. GERALD R. FORD. Let me say that in the meeting with the Democratic and Republican leaders, including the Speaker and the Democratic majority leader from the House as well as the Senate there was no discussion of the Vietnam war. No questions on those matters were asked by those present. It was made crystal clear that there was no abrogation of our treaty with the government on Taiwan.

It was strongly reaffirmed that it was the option of our Government to withdraw our troops as tensions eased in the Pacific. This was stated very specifically in the communique.

Mr. Speaker, I say for myself, after listening to the remarks made by the President, the Secretary of State and Dr. Kissinger, and rereading the communique that a good many of the press misconstrued and misinterpreted the communique.

The United States is standing by its treaty obligations not only with Taiwan but with other countries in the Pacific and it would be our option to reduce our forces in Taiwan if tensions eased.

I might add one other comment. The United States has 8,000-plus U.S. military personnel in Taiwan. The buildup from 2,000 troops to approximately 8,000 troops started in 1965 in support of our mission in Vietnam, and those 8,000 will be reduced as we continue to disengage from the war in Vietnam.

The answer to the gentleman is that we can solve our problems and are ending the war in Vietnam.

Mr. O'NEILL. I would like for the gentleman from Michigan to comment upon this: I think that the public should reappraise the entire matter because I have come to the conclusion, and I think a great majority of Americans believed that the President, from what they have read in the newspapers, has changed American policy in regard to Taiwan.

Mr. GERALD R. FORD. Will the gentleman yield to me again?

Mr. O'NEILL. I would be happy to yield further to the distinguished minority leader.

Mr. GERALD R. FORD. I might further point out that this prospective action is predicated upon the easing of tensions and coincides with the Nixon doctrine of withdrawing our forces in the Pacific and letting the individual nations handle any military conflicts, with our backup in weapons, and technical training. But it is their responsibility—the responsibility of each nation—to protect their own borders, to protect their own governments and their own people. The eventual withdrawal of U.S. forces from Taiwan is an integral part of the overall Nixon doctrine—of reducing American military manpower commitments in that area of the world.

Mr. O'NEILL. In other words, it is a remarkable change from the day when we had the 7th Fleet guarding the straits.

WAGERING TAX AMENDMENTS OF 1972

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1010) to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes.

The Clerk read the title of the bill.

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

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object——

Mr. PATMAN. Mr. Speaker, reserving the right to object——

The SPEAKER. The Chair will protect the rights of the gentleman from Texas.

The gentleman from Wisconsin (Mr. BYRNES) reserves the right to object.

Mr. BYRNES of Wisconsin. Mr. Speaker, it is not my intention to object, but I reserve this time in order to yield to the chairman of the committee, the gentleman from Arkansas (Mr. MILLS) for an explanation of the legislation. But before yielding to the gentleman I would like to make some comments about some of the statements that were made here today.

Mr. Speaker, this procedure is a normal procedure of the House. If anybody has objection to a particular bill all he need do is rise and state those objections, and the bill is then not considered in this manner.

If there are questions as to whether the rules have been complied with, anybody desiring to make a point of order is at liberty to do so, and the committee is in no way attempting to circumvent that right. There have been questions as to whether these bills comply with the Ramseyer rule, I believe all of the bills do comply with this rule. There are any other points of order the Chair can rule as to whether the committee has complied with the rules of the House, or that the bill is not in accord with all of the rules of the House. This is not any effort by the Committee on Ways and Means to force through legislation and to do it in a manner that is inconsistent with the full consideration of the legislation. Everybody has the right to object. And when we have taken these bills up in the House on occasions before this, I say to you, Mr. Speaker—and I know that you are well aware of it—that we have always taken great pains to see that some member of the committee reserves the right to object, such as I am doing at this time, in order to yield for a proper explanation of the legislation by the chairman of the committee, and also to yield to any Members who may have any questions, or who may have any other comments with respect to the bills.

This legislation can be brought up, Mr. Speaker, under procedures that will require more lengthy discussion, and if that is what the Members want on any particular bill that they object to, that would be the procedure that would be followed, and that could be, if the chairman decides to do so, under the suspension of the rules calendar, or by going to the Committee on Rules.

But let me add that as far as the 25 members of the Committee on Ways and Means are concerned—and I would point out to my friends on the other side that 15 of those are Members who sit on that side of this Chamber—it was the feeling at the time these bills were considered, that these did not require the same kind of lengthy discussion that would be entailed if we went to the Committee on Rules, or even if they were considered under the suspension calendar.

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

Mr. BYRNES of Wisconsin. No; I will not yield to the gentleman from Texas at this time.

However, Mr. Speaker, I will yield to the chairman of the committee, the gentleman from Arkansas (Mr. MILLS) for an explanation of the bill.

I now yield to the gentleman from Arkansas (Mr. MILLS) the chairman of the committee.

Mr. MILLS of Arkansas. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this bill was ordered reported by the Committee on Ways and Means last October. The Treasury Department and the Justice Department strongly urged its adoption. It is substantially the same bill that passed the House in the last Congress by unanimous consent on December 27, 1970.

Mr. Speaker, this bill (H.R. 1010) revises the wagering tax provisions of the tax laws to remove constitutional infirmities in those provisions by prohibiting certain types of disclosures of information furnished by taxpayers, in connection with the wagering taxes. Additionally, the bill increases the occupational taxes from $50 to $1,000 for principals and agents; imposes a $100 occupational tax upon pickup men, employees, and punchboard operators; provides a credit against both the tax on wagers and the occupational tax, in the case of those persons who pay similar taxes to State and local governments; and increases the criminal penalties of existing law.

Let me tell you why the bill is necessary, Mr. Speaker. The bill is necessary because of the 1968 decisions of the Supreme Court in the Marchetti against United States, and Grosso against United States cases. These cases held that a person may validly refuse to comply with the Federal wagering tax statute by asserting the self-incrimination privilege of the fifth amendment to the Constitution, if complying with the statute could incriminate the defendant.

The Court found that persons complying with the wagering taxes had no assurance under existing law that information given to the Internal Revenue Service in connection with such compliance would not be used against them in criminal proceedings based upon their gambling activities. As a result of the Marchetti and Grosso cases, the wagering taxes have become largely unenforceable, and will probably remain so until this bill or a similar one is enacted.

The increases in, or the initiation of the occupational tax in the cases I have referred to are necessary because the proper enforcement of the wagering tax requires additional manpower. Increases in occupational taxes are required to cover these costs.

The credit against the Federal wagering and occupational taxes for similar taxes imposed at the State level seems fair as a means of equalizing the burden of these taxes throughout the United States.

The Treasury estimates, as does our own staff, that this bill will produce about $25 million a year of additional revenues. I want you to hear that—about $25 million of additional taxes under a provision that was enacted many years ago, but which became ineffective and inoperative as a result of these two Supreme Court cases.

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

Mr. BYRNES of Wisconsin. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Speaker, I earnestly hope that no Member will exercise his acknowledged privilege to object on the unanimous-consent request.

As the distinguished gentleman from Wisconsin has already explained, it would be possible to follow procedures through the Committee on Rules and debate the bill at length on the floor. But as the distinguished chairman of this committee has said, this matter has already been exposed to full consideration in the committee of the House and in the Finance Committee of the other body on several different occasions since 1969.

Similar legislation passed the House and was reported by the Senate Finance Committee in the last Congress but was not finally enacted into law.

The urgency of the passage of this legislation cannot be overstated. The old Federal wagering tax act was found by the Supreme Court in the Marchetti and Grosso cases to violate the right to protection against self-incrimination under the fifth amendment to the Constitution. Specifically, the present act requires certain reports and documents which the court held would expose the taxpayer to criminal prosecution for crimes other than those related to the Internal Revenue laws, and for that reason impinged upon the taxpayer's privilege against self-incrimination.

Following those two decisions, the wagering tax act became a functional

nullity and thousands of pending cases were abandoned and never prosecuted.

In the course of time since those decisions were rendered, the Treasury has failed to collect some $6 million in revenues which it otherwise would have collected.

With the change in the tax structure projected in this legislation, the Treasury Department estimates that there will be in each of the next 3 years an annual collection of $20 to $25 million in revenues.

Perhaps more important, with the revitalization of this act, it will be possible to act meaningfully in the fight against organized crime. All experts in the field familiar with the organized crime complex acknowledge that the chief source of revenue is gambling receipts.

That is what is used to bankroll loan sharking and other criminal ventures, and it is time, Mr. Speaker, that the law enforcement establishment be given the tools it needs to deal effectively with this problem.

So I earnestly hope that no Member will exercise their right to object to this unanimous-consent request.

Mr. BYRNES of Wisconsin. Mr. Speaker, further reserving the right to object, I do want to compliment the gentleman from Virginia (Mr. POFF), the author of the bill, who has been most diligent in trying to get this matter corrected since the decisions of the Court.

Mr. POFF. I thank the gentleman.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 1010, a bill which would amend Internal Revenue Code provisions relating to taxes on wagering.

Existing law provides broad limitations on publicizing income tax returns, but similar restrictions are lacking on returns and other documents connected with wagering taxes. H.R. 1010 would change this by providing that no Treasury Department official or employee may disclose, directly or indirectly, any document or record or information pertaining thereto from a taxpayer with respect to such taxes, except in connection with the administration or enforcement of internal revenue taxes. The bill also provides that certain documents and pertinent information related to wagering taxes may not be used against a taxpayer in any criminal proceeding, except in connection with the administration or enforcement of internal revenue taxes.

A fine of up to $1,000 or a year's imprisonment, or both, for violators of the nondisclosure provisions are also provided for in the bill.

The committee believes that these changes in the law will remove any constitutional problems which have existed regarding enforcement of the wagering taxes.

The bill also provides for substantial increases in the occupational taxes associated with wagers. Principals and their agents would be subject to a tax of $1,000 instead of $50 a year. Punchboard operators would pay $100 rather than $50, and additional categories of persons connected with wagers who are not now subject to any tax would be required to pay a $100-a-year occupational tax. The Treasury Department has estimated that these changes would produce from $20 to $25 million annually, whereas little revenue is collected from such sources now.

To avoid preempting the States and their political subdivisions from this field of taxation, the bill includes provisions for a credit against Federal tax liability for State and local wagering and occupational taxes paid. Additionally, the measure provides for increased sanctions for failure to comply with wagering tax provisions.

Mr. Speaker, this bill has been recommended by both the Treasury and Justice Department, and it was reported unanimously by the committee. I hope the House will take favorable action on it at this time.

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

Mr. BYRNES of Wisconsin. I yield to the gentleman.

Mr. MILLS of Arkansas. Mr. Speaker, I want to join my colleague, the gentleman from Wisconsin, in complimenting our friend, the gentleman from Virginia (Mr. POFF) for his introduction of this legislation.

It is interesting to me to note that everyone we have heard from, including the American Bar Association, as well as the Department of Justice and the Treasury Department—all we have heard from urgently request us to pass the bill for the reasons which have been mentioned, not only the revenue involved, but to help the authorities with this matter of organized crime.

Mr. BYRNES of Wisconsin. Mr. Speaker, I withdraw my reservation.

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

Mr. PATMAN. Mr. Speaker, reserving the right to object, the gentleman from Arkansas said he would answer any questions that any Member wished to ask. The No. 1 question would be this: Why should they raise the fine to only $1,000 instead of $10,000 or $5,000? Do you not think——

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

Mr. PATMAN. No, not right now. Do you not think that there ought to be a committee hearing to which everyone in the United States has notice at and that if anyone wants to be heard, to communicate with the clerk of the committee and time will be afforded him, and also so that Members of the House will know about it? I merely wonder if public notice was given that this bill was going to be heard at a certain time. I will ask the chairman of the committee that question.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman ask me the question again?

Mr. PATMAN. When the bill was heard before the committee, was it at a closed session or an open session, and was notice given to everyone—by press, radio, the news media—that this bill would be heard by the committee at a certain time, so as to alert people who are interested so that they could make application for an opportunity to testify on the bill if they so desired, and also to give Members of Congress an opportunity to know?

Mr. MILLS of Arkansas. I appreciate the gentleman's question. We did endeavor to hear everybody who wanted to be heard on any of these matters.

Mr. PATMAN. Did you notify them?

Mr. MILLS of Arkansas. There are plenty of notice in the news media. They carry day by day the bills that are being considered by our committee. When we consider a bill, it is generally written up in a number of newspapers throughout the United States. I do not know how many; that depends upon the subject. The gentleman asked me if we notified everybody. I, of course, could not get in touch with the leadership of organized crime to let them know that we were going to do this certainly, no one else indicated any objection to the bill.

Mr. PATMAN. This is not organized crime legislation.

Mr. MILLS of Arkansas. Oh, yes, it is. The gentleman does not understand.

Mr. PATMAN. It is a bill against wagering and gambling.

Mr. MILLS of Arkansas. This is part of the President's overall crime package which he asked us to enact.

Mr. PATMAN. I do not yield further at this point. On this particular bill, if a Federal licensee should have to pay $1,000 to engage in certain types of gambling, including wagers on different things, like the tax upon pickup men, employees, and punchboard operators, do you not think that this would be an encouragement for a few people in a State, where they are organizing these gambling syndicates now within the State lines of each State, and that if you raise it to $1,000 from $50 in a State, you make it a lot easier for the big gamblers to get control? The little gamblers will fall out because the amount is too big, and this will encourage gambling. I want to stop gambling. I think it is bad. I think that we should have methods developed to stop gambling. Are you encouraging gambling in this legislation or are you discouraging it? I do not believe you are encouraging it because I know the gentleman and I know he is not that type of American citizen. But I just believe that it might be encouragement to a few people to get charge of gambling within the lines of the different 50 States of the Union.

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

Mr. PATMAN. I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. Does the gentleman make a distinction between a big and a little gambler? Did I understand him to say that a little gambler is all right?

Mr. PATMAN. Well, whenever you pay the maximum, you are a big gambler.

Mr. MILLS of Arkansas. The gentleman does not understand. The rate is 10 percent of the take, whether it is $1 million or $10.

Mr. PATMAN. That is not in here. A public hearing would bring that out.

Mr. MILLS of Arkansas. That is existing law.

Mr. PATMAN. It is not in this bill, however.

Mr. MILLS of Arkansas. This bill is an amendment of existing law.

Mr. PATMAN. That is the reason we should have full knowledge of what is going on here. It is absolutely wrong to pass a bill by unanimous consent, and not this one in particular necessarily that will cost billions of dollars. And we have passed them.

Mr. MILLS of Arkansas. This raises $25 million a year additional revenue. It does not lose a penny.

Mr. PATMAN. I know, but it helps in some States to create a monopoly, and that is what we do not want, because monopolies lead to hoodlums.

Mr. MILLS of Arkansas. I am not going to argue the bill further with the gentleman. If the gentleman wants to object to the bill, I suggest he should do so.

Mr. PATMAN. Just a moment. If it leads to monopolies, the hoodlums in certain States will have large amounts of money, and they will use that money for bribery, and they will use that money for corruption, and they will use that money for kidnapping purposes, and for everything that is wrong and evil. So we want to discourage gambling. We do not want to encourage these hoodlums having tremendous sums of money that they can use in such bad ways as that.

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Arkansas?

Mr. MILLS of Arkansas. The organized crime section of the Department of Justice is entirely in accord with the gentleman's conclusion and that is why the Justice Department wants this bill enacted, I do not believe the gentleman from Texas will convince anyone outside of Government even that this creates a monopoly of crime. This is the vehicle to help eliminate crime in this area, and it is an important part of the President's overall fight against crime.

Mr. PATMAN. Then why did the gentleman not make it $5,000 or $10,000?

Mr. MILLS of Arkansas. We made it exactly what the organized crime section of the Department of Justice asked us to make it.

Mr. PATMAN. If the gentleman is right about that, if the gentleman had a public hearing as the rules of the House contemplated, and contemplate, then he would hear all these different witnesses, and he would know who was testifying and he would have all this as a matter of record and show justification for it.

That would be wonderful. But we have none of that. We are asked to just—each one of us—agree that this bill should be passed when we would be acting blindly and do not know what the facts are.

Mr. MILLS of Arkansas. The gentleman knows that I vote for the gentleman's legislation out of his committee. I do it because I have that degree of confidence in the gentleman's committee.

Mr. PATMAN. I never have objected to a bill from the gentleman's Ways and Means Committee before. I never have.

Mr. MILLS of Arkansas. I know. If the gentleman will yield further, this bill came out of the Ways and Means Committee with 25 Members all voting in favor of it, because they were all convinced the Organized Crime Section of the Department of Justice needed this to help them in their fight against organized crime.

Mr. PATMAN. If the gentleman would bring out a bill against organized crime, even I would vote for it——

Mr. MILLS of Arkansas. This is it.

Mr. PATMAN. But we do not want it concealed. We want to know who testified for it and will it actually do the work. Sometimes a bill is passed against organized crime, and it is interpreted in a way to help organized crime. We do not want that. We want to stop gambling and organized crime.

Mr. MILLS of Arkansas. Then vote for the bill.

Mr. PATMAN. We want to hear and read testimony of witnesses before the committee. But I think it is unfair to the Members of the House to bring out a bill here with no information at all, nothing, in violation of the rules. There is no hearing, no adequate report. But the gentleman states that the committee estimates the increased occupational tax will yield $25 million annually. That seems awfully small for the 50 States. We would like to see the figures that were used in order to arrive at this estimate. We would like to know with our own independent judgment as to whether or not they arrived at that correctly and whether or not all the information was considered that should have been considered.

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. The estimate the gentleman refers to was not made in the usual way that estimates are made by the Treasury Department. This particular estimate was made by the Intelligence Service of the Internal Revenue Service. It is based on two projections. One is the estimate of the number of persons which would be subjected to the thousand dollars, and the other is those who would be subjected to the $100 tax. They must know more about it by far than I do, and even my friend, the gentleman from Texas, knows.

Mr. PATMAN. What objection does the gentleman have to having hearings on this bill in the normal way?

Mr. MILLS of Arkansas. Nobody asked for a hearing.

Mr. PATMAN. Suppose I ask for it right now. Is the gentleman willing to give a hearing on it?

Mr. MILLS of Arkansas. The House passed a bill almost identical to this bill on December 22, 1970—a year and a half ago. There has been plenty of public notice.

Mr. PATMAN. In 1970?

Mr. MILLS of Arkansas. Yes.

Mr. PATMAN. Then there is no delay on it. It is not a must bill.

Mr. MILLS of Arkansas. Knowing my friend as I do, how serious he is and so forth—he is almost ingenious in regard to legislation. The Ways and Means Committee would not have passed a bill out of the committee in December of 1970, passed it through the House by unanimous consent, have had that bill reported by the Finance Committee of the Senate by unanimous consent, with the only reason why it was not passed that it could not be considered by the Senate in the closing days of the session, without his knowledge. My friend cannot convince me he did not have all the notice in the world of that action.

This bill—similar to the 1970 bill—was ordered reported by the Ways and Means Committee in October of 1971. It is substantially the same bill—identical except for the dates.

The gentleman knows it has the endorsement of the American Bar Association, the Department of Justice, and the Treasury Department.

No one asked to be heard on the bill. No one objected, and it has been available all that time.

I was wondering whether someone in organized crime might rise up to object, but no one contacted us.

Mr. PATMAN. Do not try to connect everybody with organized crime who tries to object to any one of your bills.

Mr. MILLS of Arkansas. I am not doing that.

Mr. PATMAN. This is the only time I have ever objected to one of your bills. I have had great faith and confidence in the gentleman, but these 22 bills caused me to take another look at that faith and confidence.

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

Mr. PATMAN. Let me explain, and then I will yield to the gentleman.

You have bills in here that will greatly harm the foundation legislation passed a few years ago.

Mr. MILLS of Arkansas. There is not a bill on this list that deals with foundations.

Mr. PATMAN. Yes, you have.

Mr. MILLS of Arkansas. Not a bill on this list.

Mr. PATMAN. Foundation bills we got passed with the aid of the gentleman in 1966 to 1969. This weakens the foundation law.

Mr. MILLS of Arkansas. There is not a foundation bill on this list, and the gentleman knows that.

Mr. PATMAN. Then there are bank holding company bills here.

Mr. MILLS of Arkansas. I took that one off, at your request.

Mr. PATMAN. That one bill.

Mr. MILLS of Arkansas. It is not here.

Mr. PATMAN. Yes. You are correct.

Mr. MILLS of Arkansas. Whenever you tell me you object to a specific bill ahead of time, or any other Member tells me, I do not call a bill up.

Mr. PATMAN. Now you have bills here that would touch the bank holding companies and the big banks.

Mr. MILLS of Arkansas. Would the gentleman wait to see what bills we call up.

Mr. PATMAN. But we have no knowledge and information from a hearing to base it on.

Why should the gentleman stand up here, fine and fair as he is, and insist on all of us taking the word of one Member or of two or three Members? Why

does he not bring it in like the law requires, like the Constitution contemplates, and say, "Now, we heard certain witnesses on this, and they told us this. Here is the testimony. Here is the name of the witness."

Then we can find out for ourselves as to whether or not we should accept it as true and rely upon it. That is not asking too much.

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

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

Mr. GROSS. I hope the gentleman from Texas is aware that he is not only slowing down the business of the House but he is also slowing down a presidential campaign.

Mr. PATMAN. Yes. And maybe saving a lot of money to the taxpayers.

You see, these bills are loaded—not on purpose, but they are loaded with possibilities of great losses to the taxpayers. On every bill that comes in here we should give the bill attention.

If the chairman will bring in a bill which has not even had a public hearing, we should look with suspicion upon that. We want to know. It is not that he has done something wrong, but because he has failed to equip us with the information and knowledge we should possess before we vote upon a bill.

That is all I ask, is for the bills to be brought in in the same way and manner that other committees bring bills in, and that the chairman of this committee brings bills in. That way we would be equipped and we would know. We would know whether to vote for it or against it, and we would have an opportunity to offer an amendment.

This way we have no opportunity to offer any amendment. This is a "gag rule" bill.

Mr. BAKER. Mr. Speaker, I demand the regular order.

The SPEAKER. The regular order is demanded.

Is there objection to the request of the gentleman from Arkansas?

Mr. PATMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 53]

Abourezk	Cederberg	Dwyer
Anderson, Calif.	Celler	Edwards, La.
	Clark	Erlenborn
Anderson, Tenn.	Clausen, Don H.	Foley
		Fraser
Andrews	Clay	Galifianakis
Arends	Collier	Gallagher
Ashbrook	de la Garza	Grasso
Baring	Denholm	Gray
Blanton	Dennis	Hastings
Blatnik	Dent	Hébert
Burke, Fla.	Dickinson	Horton
Caffery	Diggs	Hosmer
Casey, Tex.	Dorn	Kyl
Landgrebe	Podell	Staggers
McCloskey	Powell	Stubblefield
McEwen	Pryor, Ark.	Teague, Calif.
Macdonald, Mass.	Quie	Teague, Tex.
	Rees	Thompson, N.J.
Michel	Rhodes	Vanik
Miller, Calif.	Rostenkowski	Wiggins
Moorhead	Roybal	Wolff
Pelly	Scheuer	Wright

The SPEAKER. On this rollcall 366 Members have answered to their names, a quorum.

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

INCOME TAX EXCLUSION FOR MILITARY AND CIVILIAN PRISONERS OF WAR

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9900) to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

The Clerk read the title of the bill.

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

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, I do so only for the purposes of yielding to the gentleman from Arkansas, the chairman of the committee, for an explanation of the bill.

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

Mr. MILLS of Arkansas. I thank the gentleman.

Mr. Speaker, under present law an exclusion is provided for pay received by a member of the Armed Forces for any month during which he served in a combat zone or was hospitalized as a result of serving in a combat zone.

In the case of enlisted personnel, the exclusion applies to all of their pay. Commissioned officers, on the other hand, are eligible for an exclusion on only the first $500 per month of their pay.

This bill does not alter these provisions in present law dealing with combat pay. The bill does, however, extend in three ways the manner in which it applies in the case of the Vietnam conflict.

First, the bill has the effect of extending the present combat pay exclusion so that it includes amounts paid to a commissioned officer in excess of $500 per month if that officer is in a missing status as a result of the Vietnam conflict. Currently if a member of the Armed Forces is missing or held as a prisoner the compensation which is paid or accumulated on his behalf is not subject to withholding. If the individual is released or returns he would, if he were a commissioned officer, be subject to tax on the portion of the compensation in excess of $500 per month which was paid to him while he was in a missing status. The imposition of a back tax liability upon a former prisoner at this time could result in severe hardship. Considering the significant ordeal which those missing or held as prisoners of war were called upon to endure in the service of their country, it appears appropriate to extend to commissioned officers who are in a missing status the full exclusion which is now available to enlisted men.

Second, the bill provides that the combat pay exclusion applies to civilian governmental employees who are in a missing status as a result of the Vietnam conflict. The assistance of these individuals is essential to the effectiveness of military operations and therefore the committee believed it was appropriate to treat civilian employees who are in a missing status in the same manner as members of the Armed Forces who are in that status.

The third and last change made by this bill relates to the period during which the exclusion is available. The bill makes the exclusion available if the member of the Armed Forces or civilian employee is in a missing status during the Vietnam conflict. The bill defines the Vietnam conflict as having begun on February 28, 1961, the approximate time when American military advisers began accompanying Vietnamese counterparts on military operations. The President of the United States designated Vietnam as a combat zone for periods beginning on or after January 1, 1964. Under the bill, therefore, an individual who was in a missing status prior to that time, but after February 28, 1961, may become eligible for the exclusion provided by this bill. The exclusion from income afforded by this bill applies to taxable years ending on or after February 28, 1961.

On the basis of a potential of some 2,000 persons involved, at an estimated $4,000 per person per year of nonexcluded pay, with the numbers of persons built up gradually from 1961, it is estimated that about $25 million of such pay will have accumulated by the end of the year 1972.

Now, if all of these prisoners are returned, as we hope they will be, then this bill represents a maximum revenue loss of $5 million spread over the next few years.

Mr. Speaker, this bill has been reported unanimously by the Ways and Means Committee and its enactment is favored by the administration. I urge that the bill be adopted.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 9900, a bill to amend the Internal Revenue Code to exclude from gross income the compensation of members of the Armed Forces and civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

An exclusion of this type already is available for enlisted personnel of the Armed Forces, and the committee felt it would be equitable to extend the same benefit to others involved in the Vietnam conflict; namely, commissioned officers and civilian employees of the U.S. Government. Commissioned officers now receive an exclusion, but it is limited to the first $500 of pay per month.

This legislation would result in an estimated revenue loss of $5 million over the

first 3 years. But it was the committee's belief that the cost was considerably outweighed by the equity of tax treatment provided.

The Treasury Department, which agreed with the revenue loss estimate, registered no objection to this bill, and the committee was unanimous in ordering it reported. Therefore, Mr. Speaker, I urge the House to approve it now.

Mr. Speaker, I withdraw my reservation.

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

Mr. PATMAN. Mr. Speaker, reserving the right to object, this bill, too, fails to meet the normal procedures. I regret this.

I do not know of anyone who is entitled to more from his Government than the prisoners of war. They have gone out and even offered to shed their blood and offered their lives for the cause of our country when the country needed them. I believe when they need their country we should do what is necessary, always.

I regret that this bill did not have a public hearing. I believe the POW's deserve a proper treatment. I believe it would be to their credit for people to know all about these things, and possibly they would even get more than what is provided in this bill.

I think secret executive hearings have a tendency to prevent the cause of justice prevailing every time because of our generosity in certain cases like this.

Much as I regret it, because this is so deserving, I shall not object, Mr. Speaker.

Mr. MATSUNAGA. Mr. Speaker, as a cosponsor of a similar bill, H.R. 10660, I am happy to express my strong support for H.R. 9900, which would eliminate Federal income tax liability on compensation earned by men classified as either prisoners of war or missing in action.

Of course, there is no way to acknowledge adequately our debt to these brave men, and their equally brave families, for the burden that has been thrust upon them. But we can, and should, lighten the tax burden they are called on to shoulder.

Under present law, the entire amount of taxable income for enlisted personnel, and the first $500 per month for officers, is exempted from taxation for all personnel serving in a combat area. H.R. 9900 would simply extend that exemption to all taxable income for anyone in a POW/MIA status.

I trust that the House will seize this opportunity to make a small gesture to these men and their families, in recognition of the great sacrifices they have made and are making for America. Mr. Speaker, I urge the unanimous approval of H.R. 9900.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 9900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 112 of the Internal Revenue Code of 1954 (relating to certain combat pay of members of the Armed Forces) is amended by adding at the end thereof the following new subsection:

"(d) PRISONERS OF WAR, ETC.

"(1) MEMBERS OF THE ARMED FORCES.—Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551(2) of title 37, United States Code) during the Vietnam conflict, other than a period with respect to which it is officially determined under section 552(c) of such title 37 that he is officially absent from his post of duty without authority.

"(2) CIVILIAN EMPLOYEES.—Gross income does not include compensation received for active service as an employee for any month during any part of which such employee is in a missing status during the Vietnam conflict. For purposes of this paragraph, the terms 'active service', 'employee', and 'missing status' have the respective meanings given to such terms by section 5561 of title 5 of the United States Code.

"(3) PERIOD OF CONFLICT.—For purposes of this subsection, the Vietnam conflict began February 28, 1961, and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam."

SEC. 2. The amendment made by the first section of this Act shall apply to taxable years ending on or after February 28, 1961. If refund or cerdit of any overpayment resulting from the application of the amendment made by the first section of this Act (including interest, additions to the tax, and additional amounts) is prevented, at any time before the expiration of the one year period which begins on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam, by the operation of any law or rule of law, such refund or credit of such overpayment may, nevertheless, be made or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such one year period.

With the following committee amendments:

Page 2, line 8, strike out "flict," and insert: flict as a result of such conflict,

Page 2, line 16, strike out "conflict." and insert: conflict as a result of such conflict.

Page 2, line 18, strike out "rspective" and insert: respective

Page 2, line 24, strike out the quotation marks and insert:

For purposes of this subsection, an individual is in a missing status as a result of the Vietnam conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam."

Page 2, strike out line 25 and all that follows down through line 12 on page 3 and insert:

SEC. 2. Section 3401(a)(1) of the Internal Revenue Code of 1954 (defining wages for purposes of withholding) is amended to read as follows:

"(1) for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat pay of members of the Armed Forces of the United States); or".

SEC. 3. (a)(1) The amendment made by the first section of this Act shall apply to taxable years ending on or after February 28, 1961.

(2) If refund or credit of any overpayment for any taxable year resulting from the application of the amendment made by the first section of this Act (including interest, additions to the tax, and additional amounts) is prevented at any time before the expiration of the applicable period specified in paragraph (3) by the operation of any law or rule of law, such refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such applicable period.

(3) For purposes of paragraph (2), the applicable period for any individual with respect to any compensation is the period ending on whichever of the following days is the later:

(A) the day which is one year after the date of the enactment of this act, or

(B) the day which is 2 years after the date on which it is determined that the individual's missing status (within the meaning of section 112(d) of the Internal Revenue Code of 1954) has terminated for purposes of such section 112.

(b) The amendments made by section 2 shall apply to wages paid on or after the first day of the first calendar month which begins more than 30 days after the date of the enactment of this act.

The committee amendments were agreed to.

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

IMPORTATION OF PRE-COLUMBIAN SCULPTURE AND MURALS

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9463) to prohibit the importation into the United States of pre-Columbian monumental and architectural sculpture, murals, and any fragment or part thereof, exported contrary to the laws of the country of origin, and for other purposes.

The Clerk read the title of the bill.

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

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, and I shall not object, but I do so in order to yield to the gentleman from Arkansas, the chairman of the committee, for an explanation of the legislation.

I now yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. Mr. Speaker, the purpose of H.R. 9463, as reported, is to prohibit the importation of certain pre-Columbian monumental or architectural sculpture or murals if they are exported in violation of the laws of the country of origin, and to provide that any such sculpture or murals illegally imported into the United States be seized, forfeited, and thereafter either returned to the country of origin upon request therefor by such country, or otherwise disposed of in accordance with law.

The ceremonial centers and architectural complexes of the ancient civilizations of Latin America are being pillaged and mutilated in order to meet the demands of a flourishing international market for pre-Columbian art objects. Frequently, art objects taken from these centers and complexes are broken into pieces and otherwise seriously damaged for the convenience of the looters, who export the fragments from the country of origin for sale to collectors and cultural institutions.

There have been efforts made on the

part of most of the affected countries in Latin America to control the outflow of these culturally significant objects, but the large number of sites, often in remote locations, and the high prices commanded by the objects in the international markets, work against effective regulation. While these problems are not unique to Latin America, your committee is informed that the situation in that area is particularly urgent.

Mr. Speaker, against this background, the Department of State proposed H.R. 9463, to assist in eliminating further destruction of these important historical and cultural sites. The American Society of International Law on International Movement of National Art Treasures, a panel of representatives of major collecting institutions and art dealers in this country, and the American Institute of Archeology, all have expressed support of the type of legislation embodied in H.R. 9463.

H.R. 9463, as reported, would prevent the importation into the United States of a narrow class of valuable archeological objects exported contrary to the laws of the respective countries of origin. The objects to which the bill applies are pre-Columbian monumental or architectural sculpture or murals which are defined under section 5(3) of the bill as any stone carving or wall art which: First, is a product of the pre-Columbian Indian culture of Mexico, Central America, South America, or the Caribbean Islands; second, was an immobile monument or structure or was part of, or affixed to, any such monument or structure; and third, is subject to export control by the country of origin. Under the first section of the bill, the Secretary of the Treasury, after consultation with the Secretary of State, is directed to promulgate, and from time to time revise, by regulation a list of stone carvings and wall art which meet that definition.

Section 2 of the bill provides that a pre-Columbian sculpture or mural included on the list promulgated by the Secretary of the Treasury, or any part or fragment of such a listed object, may not be imported into the United States if it was exported from the country of origin—whether or not such exportation is to the United States—after the effective date of the regulation placing such sculpture or mural on the list unless the importer can produce a certificate issued by the government of the country of origin stating that the exportation was not in violation of the laws of that country.

An importer may enter a pre-Columbian sculpture or mural without such a certificate if he can produce evidence establishing that the sculpture or mural, or part or fragment thereof, was exported from the country of origin on or before the effective date of its listing, or evidence that the sculpture or mural is not covered by the list. Section 2 of the bill further provides that an importer whose sculpture or mural has been seized at the time of entry has a period of 90 days, or such longer period as the Secretary of the Treasury may allow for good cause shown, to produce the certification or evidence necessary to establish his right to enter the sculpture or mural into the United States.

Section 3(a) of the bill provides for the seizure and forfeiture under the customs law of any sculpture or mural imported in violation of the bill. Section 3(b) of the bill provides that any sculpture or mural which is forfeited shall be returned to the country of origin if that country bears all of the expenses incurred incident to such return and it complies with all other requirements relating to such return. If a sculpture or mural is not returned to the country of origin, it will be disposed of in accordance with the laws which apply in the case of other articles forfeited for violation of the customs law.

Section 4 of the bill authorizes the Secretary of the Treasury to prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of the act.

Mr. Speaker, the Committee on Ways and Means believes that H.R. 9463, as reported, would be an effective means of assisting the interested countries in preserving their cultural heritage, and such limitations would facilitate the work of American and foreign archeologists. The committee was unanimous in recommending enactment of H.R. 9463, and I urge its favorable consideration.

Mr. Speaker, this bill is aimed at these looters of these priceless sculptures and murals in the country of Mexico and other Central and South American countries. These countries have asked that we take this action. The administration has recommended this action to us. The committee unanimously reported the bill. We did not have any hearings on it because no objections were raised and because we could not get in touch with any of the people who were doing this illegally. So we heard the governmental officials. Anyone else who wanted to could have contacted the committee. However, no one asked to be heard.

That is true of all of these bills.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 9463, which would prohibit the importation into the United States of certain pre-Columbian monumental and architectural sculpture, murals, and any parts or fragments thereof.

It was brought to the attention of the committee that there has been increasing concern throughout the world about rising losses of national art treasures through theft, clandestine archeological operations, and illicit exports. The problem appears to be most acute in Latin America, where archeologists, governmental leaders, and art lovers all have expressed fear that the remains of ancient civilizations—such as the Mayan civilization in Guatemala—will be threatened with extinction if corrective steps are not taken soon.

A number of illegally exported pre-Columbian objects reportedly have appeared in the United States, and the American Society of International Law on International Movement of National Art Treasures suggested that legislation along the lines of H.R. 9463 be enacted. The State Department subsequently proposed it to the Congress.

The bill, which was amended by the committee, would prevent imports of a narrow class of objects which had been exported contrary to the laws of the country of origin. The Customs Bureau advised the committee that applying import controls to this limited category of articles would be administratively feasible, and the committee was unanimous in reporting the measure.

H.R. 9463 should, if enacted, prove to be an effective means of assisting the interested countries in preserving their cultural heritage, and in a corollary way, facilitate the work of American and foreign archeologists.

Mr. Speaker, I therefore ask the House to pass this legislation now.

Mr. Speaker, I withdraw my reservation of objection.

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

Mr. PATMAN. Mr. Speaker, reserving the right to object, this bill does not amount to too much on its face. However, it violates a great principle of representative government. Representative government contemplates fairness to the people that the Members of Congress represent.

They cannot do their duties well and effectively unless they have good rules to go by and unless those rules are obeyed by the respective committees of Congress that are supposed to hold hearings on this type of legislation.

Now, I think it is terrible that a committee would bring a bill up under a unanimous-consent request, which is a gag rule—a gag rule—and there is no way you can offer an amendment to it at all; you are gagging every Member of this House, although he is elected by the people just like the Chairman of the Committee on Ways and Means is elected, but he is gagging every Member of this House and, of course, that means they are not permitted to exercise their independent judgment like they were voted for as a Member of Congress to exercise.

Mr. Speaker, I think it is fundamentally wrong. I think it is fundamentally bad and should not be tolerated.

Further, there is too much risk of a raid on the Treasury by getting bills through like this. We have had too many raids on the Treasury.

Today, we have the biggest deficit in the history of any country on earth or will have for the next fiscal year. A lot of that was caused by raids on the Treasury.

I do not say that every one of these are raids on the Treasury—and I do not say that any one of them is a raid on the Treasury—but there is a good chance, a perfect chance to have a raid on the Treasury through following this type of procedure. Whereas, if you had hearings like normal procedure requires and give the people an opportunity to be heard if they are interested in testifying before the committee, and if you get all the facts and you put all the facts in one volume, in two volumes or three volumes of hearings, then every Member of this House would have an opportunity to get that volume and read every word

that is said and determine for himself whether or not he ought to vote for that particular bill. This type of approach prevents that and it is not right.

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

Mr. PATMAN. Yes, I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. I will state to the gentleman from Texas that I know all the members of the Committee on Ways and Means, as I do, appreciate the gentleman's suggestions and admonitions.

We are here again where no one requested to be heard on the bill at the time it was introduced until it was reported by the committee.

Further, I want to ask the gentleman this question: What is the relationship of the smuggling of pre-Columbian art into the United States and the deficit which the gentleman has mentioned? I would call the gentleman's attention to the fact that the tax law which was reported from the Committee on Ways and Means has had a less material effect upon that deficit, in my opinion than the action of any other committee of the Congress—that is, our legislation has contributed less to the deficit.

Mr. PATMAN. However, the gentleman from Arkansas does not have any public hearings for the Members to read.

Mr. MILLS of Arkansas. There was not anyone who wanted to be heard. A hearing would have been completely unnecessary.

Would the gentleman have testified on this particular bill if we had asked him?

Mr. PATMAN. It is not a question of that. I have never heard of a bill like this being passed without hearings.

Mr. MILLS of Arkansas. No one requested hearings, within the Congress, or without the Congress, or anywhere else.

Mr. PATMAN. Anyway, I am against raids on the Treasury, and I do not like to have to vote on bills of this nature under a gag rule with no hearings or no testimony which makes it more conducive and more likely to cause a raid on the Treasury than others.

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

Mr. PATMAN. Yes; I yield to the gentleman from Iowa.

Mr. GROSS. There are some 20 bills left on this unanimous-consent calendar. The gentleman from Arkansas is calling them up now not with respect to the order in which they are listed on the whip notice.

I wonder if the gentleman could give us advance notice as to what bill he proposes to call up next?

Mr. MILLS of Arkansas. I intend to call up the bill which is the one introduced by the distinguished chairman of the Judiciary Committee (Mr. CELLER) which would nullify I might say outstanding debts that have been owed to the Federal Government from 1836 by 26 States for moneys that were deposited in these various States around that time and with respect to which the Treasury has never made any attempt to collect.

Mr. GROSS. What is the number of that bill?

Mr. MILLS of Arkansas. H.R. 5815.

Mr. PATMAN. Mr. Speaker, I protest the failure of the committee in bringing a bill before the House without any hearings. I protest this. I think it is against representative government, it is against good democracy, and against the interests of our country, and provides a chance of making raids on the Treasury. However, I shall not object in this case.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 9463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act—

(1) The term "Secretary" means the Secretary of the Treasury.

(2) The term "United States" includes the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(3) The term "pre-Columbian monumental and architectural sculpture, murals, and any fragment or part thereof" means any stone carving or wall art the product of an Indian culture of Mexico, Central America, South America, or the Caribbean Islands which was an immobile monument or architectural structure or was a part of or affixed to such a monument or structure, and which has been so designated by the Secretary.

(4) The term "country of origin" means the country where the article was found.

SEC. 2. The importation into the United States of pre-Columbian monumental and architectural sculpture, murals, and any fragment or part thereof shall be prohibited if such article was exported from the country of origin after the date of the enactment of this Act and is not accompanied by a certificate issued by the country of origin in a form acceptable to the Secretary certifying that the exportation of the sculpture, murals, or any fragment or part thereof was not in violation of the laws of the country of origin.

SEC. 3. Any article presented for importation which has been designated by the Secretary under the provisions of this Act shall not be released into the commerce of the United States by Customs but shall be taken into Customs custody and sent to a bonded warehouse or public store to be held at the risk and expense of the consignee until the certificate required under section 2 of this Act is filed with the customs officer concerned or such officer is satisfied that the article was exported from the country of origin before the date of the enactment of this Act.

SEC. 4. Upon presentation for importation of a pre-Columbian monumental and architectural sculpture, mural, or any fragment or part thereof, the importer shall be given ninety days in which to file with the customs officer concerned the certificate required under section 2 of this Act or evidence relating to the date of exportation from the country of origin. Failure to file such certificate or evidence within such ninety-day period shall subject the article to disposition as provided in section 5 of this Act.

SEC. 5. In the event a pre-Columbian monumental and architectural sculpture, mural, or any fragment or part thereof is sought to be imported and is not accompanied by the certificate required under section 2, or in the event that the certificate or evidence of the date of exportation from the country of origin is not filed within the ninety-day period provided in section 4, such article shall be seized and subject to forfeiture.

SEC. 6. Any pre-Columbian monumental and architectural sculpture, mural, or any fragment or part thereof, introduced into the commerce of the United States in violation of this Act shall be subject to seizure and forfeiture.

SEC. 7. Any article which has been forfeited may be returned to the country of origin upon that country's compliance with regulations prescribed by the Secretary. All expenses incident to the return of the article to the country of origin shall be borne by the country of origin.

SEC. 8. The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

With the following committee amendment:

That, the Secretary, after consultation with the Secretary of State, by regulation shall promulgate, and thereafter when appropriate shall revise, a list of stone carvings and wall art which are pre-Columbian monumental or architectural sculpture or murals within the meaning of paragraph (3) of section 5 of this Act. Such stone carvings and wall art may be listed by type or other classification deemed appropriate by the Secretary.

SEC. 2. (a) No pre-Columbian monumental or architectural sculpture or mural which is exported (whether or not such exportation is to the United States) from the country of origin after the effective date of the regulation listing such sculpture or mural pursuant to the first section of this Act may be imported into the United States unless the government of the country of origin of such sculpture or mural issues a certificate, in a form acceptable to the Secretary, which certifies that such exportation was not in violation of the laws of that country.

(b) If the consignee of any pre-Columbian monumental or architectural sculpture or mural is unable to present to the customs officer concerned at the time of making entry of such sculpture or mural—

(1) the certificate of the government of the country of origin required under subsection (a) of this section;

(2) satisfactory evidence that such sculpture or mural was exported from the country of origin on or before the effective date of the regulation listing such sculpture or mural pursuant to the first section of this Act; or

"(3) satisfactory evidence that such sculpture or mural is not covered by the list promulgated under the first section of this Act;

the customs officers concerned shall take the sculpture or mural into customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the consignee until such certificate or evidence is filed with such officer. If such certificate or evidence is not presented within the 90-day period after the date on which such sculpture or mural is taken into customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the importation of such sculpture or mural into the United States is in violation of this Act.

SEC. 3. (a) Any pre-Columbian monumental or achitectural sculpture or mural imported into the United States in violation of this Act shall be seized and subject to forfeiture under the customs laws.

(b) Any pre-Columbian monumental or architectural sculpture or mural which is forfeited to the United States shall—

(1) first be offered for return to the country of origin and shall be returned if that country bears all expenses incurred incident to such return and complies with such other requirements relating to the return as the Secretary shall prescribe; or

(2) if not returned to the country of origin, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 4. The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this Act.

SEC. 5. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of the Treasury.

(2) The term "United States" includes the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "pre-Columbian monumental or architectural sculpture or mural" means—

(A) any stone carving or wall art which—

(i) is the product of a pre-Columbian Indian culture of Mexico, Central America, South America, or the Caribbean Islands;

(ii) was an immoble monument or architectural structure or was a part of or affixed to, any such monument or structure; and

(iii) is subject to export control by the country of origin; or

(B) any fragment or part of any stone carving or wall art described in subparagraph (A) of this paragraph.

(4) The term "country of origin", as applied to any pre-Columbian monumental or architectural sculpture or mural, means the country where such sculpture or mural was first discovered.

Mr. MILLS of Arkansas (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment, and that it be printed in the RECORD.

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

Mr. PATMAN. Mr. Speaker, reserving the right to object——

The SPEAKER. The gentleman from Texas reserves the right to object.

Mr. MILLS of Arkansas. Mr. Speaker, I withdraw my unanimous-consent request, and ask that the Clerk continue to read the amendment.

The Clerk concluded the reading of the amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the countries of origin, and for other purposes."

A motion to reconsider was laid on the table.

CANCELLATION OF INDEBTEDNESS OF STATES FOR FUNDS DEPOSITED WITH THEM IN 1837

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5815) to clarify the status of funds of the Treasury deposited with the States under the act of June 23, 1836.

The Clerk read the title of the bill.

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

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, and I shall not object, I do so in order to yield to the gentleman from Arkansas (Mr. MILLS) and request a brief explanation of the bill.

Mr. MILLS of Arkansas. Mr. Speaker, legislation passed in 1836 provided that the Treasury surplus in 1837 in excess of $5 million was to be deposited to the account of the various States.

The amount of funds distributed to 26 States under the 1836 legislation amounted to $28.1 million. No part of the $28.1 million has been repaid to the Treasury Department nor has any part of it been called for repayment by the Treasury Department.

The Committee on Ways and Means concluded that it would be inappropriate now to ask for the return of these funds. Therefore, it has concluded that any liability for repayment should now be canceled. This bill achieves this result by providing that these deposits with the States are to be treated as grants by the United States rather than as loans.

Mr. Speaker, this bill has been reported unanimously by the Committee on Ways and Means and the Treasury Department does not object to its enactment.

Mr. Speaker, in response to the previous inquiry of the gentleman from Texas, we did not have a hearing. No request came from anyone outside of the Government to be heard on this matter.

I guess perhaps it is due to the fact that it would be very strange to find anybody who was alive in 1836 who would want to come and testify to the facts of these transactions. I am satisfied that had we had a hearing and asked—and not just asked but subpenaed all of the Governors and members of the legislatures and all the other officials of the 26 States—they would have had to read the same testimony 26 or more times and they all would have wanted to be relieved of the stigma of the debt which does exist on the basis of existing law, but which under no circumstances in all probability would ever be repaid anyway.

Precedents for this action is found, I think, in some loans we have made in more recent years to some foreign governments wherein there is very little possibility, if any at all, that any of these loans will ever be repaid and more than likely they will turn out to be grants as well.

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

Mr. BYRNES of Wisconsin. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I would like to ask the gentleman from Arkansas what he means by the repayment of these loans as being inappropriate. What is inappropriate about the payment of legitimate debts to the Federal Government?

Mr. BYRNES of Wisconsin. Before yielding to the gentleman from Arkansas to respond, I would just state that I guess this was our first effort in revenue sharing. But the difference was that it came out of a surplus existing at that time and I think the general feeling then or the intention was that it was to be a grant, but to be able to recoup the money if the Federal Government found a real necessity for the funds at that time.

But through the years the Federal Government has never felt that that was necessary.

Mr. Speaker, I yield to the gentleman from Arkansas (Mr. MILLS).

Mr. MILLS of Arkansas. Mr. Speaker, perhaps the words I used were not quite as appropriate as they should have been. I agree with the gentleman that it is never inappropriate to try to collect a legal and binding obligation, however, no attempt was made to collect this one from the States.

This is legal, but it goes back almost 140 years, and no effort has ever been made by any administration since this money was given to the States to try to collect. No thought was ever given even to trying to collect, and at this late date we feel that action to collect would not be proper action.

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

Mr. BYRNES of Wisconsin. I yield to the gentleman from New York (Mr. CELLER).

Mr. CELLER. Is it not true that in all the intervening years neither the Treasury nor anyone in the Federal Government has ever made any effort to collect these sums?

Mr. BYRNES of Wisconsin. That is absolutely correct.

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

Mr. BYRNES of Wisconsin. I yield to the gentleman from Wisconsin.

Mr. REUSS. I appreciate the gentleman's yielding. I believe I could sympathize with the gentleman from Iowa (Mr. GROSS), a little bit. Here is the first effort in revenue-sharing, back in 1837, when we had a surplus, and it has resulted in the bill now before us, which would give the State of New York $4 million, the State of Arkansas $287,000, the State of Tennessee $1,434,000, and so on. I do not necessarily say that there is anything unjust in that, but I would hope that hearings would give an opportunity for some like the gentleman from Iowa, the gentleman from Wisconsin, or other "havenot" States to see whether they are not entitled to some sort of benefaction from the Federal Government, too.

So I would regret that the gentleman from Iowa, for example, did not have timely awareness and opportunity to be present, for I think he might have had something interesting to say for Iowa, and its right, at this late date, to participate retroactively in that interesting 1837 experiment in revenue sharing.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 5815, which would clarify the status of Treasury funds deposited with the States under an act of 1836.

In that year, the Congress enacted legislation providing that any Treasury surplus in excess of $5 million—as of January 1, 1837—would be deposited to the account of the various States according to their representation in the Senate and the House. As a result of this legislation, $28.1 million was distributed among 26 States.

The legislation also provided that the Secretary of the Treasury could, if funds were required, recall the money ratably from the States in accordance with the amounts each had received. However, no part of the more than $28 million which was distributed has been called for by the Treasury, and the committee agreed that it would be inappropriate to ask for repayment now.

Therefore, Mr. Speaker, the committee has provided in H.R. 5815 that the Treasury funds which were deposited with the States under the 1836 act are to be considered as grants and not loans, that any certificates of deposit issued by a State for these funds held by the Treasury Secretary are to be canceled, and that the provision authorizing the Secretary to recall the funds is to be repealed.

The Treasury Department approved this bill, Mr. Speaker, and the committee was unanimous in ordering it reported.

Mr. Speaker, I withdraw my reservation.

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

Mr. PATMAN. Mr. Speaker, reserving the right to object, I should like to add that it is true that these loans were made. I do not know anything about the terms, the interest rates, if any, or conditions. The information we have available does not disclose that. If hearings had been held, we would have found out. If they had had hearings, we would know what has happened in the meantime. If the chairman of the committee is correct—and I know he believes he is correct in it and I am not saying that he is wrong—but if he is correct, why not have a hearing, receive the testimony, and have it documented? What the chairman has given to us is undocumented facts. I am sure he believes they are facts, and I am not doubting him, but I would feel a lot better about it as a Member of Congress representing 500,000 people if I knew for sure without merely taking hearsay for it.

It would not take much to get those facts. The business of having governments come down here—there is nothing to that. This way we could get all the facts.

Remember, if the question should be that when we have a lot of money in the Treasury we should give it away to the States but when we have a $38.8 billion deficit do we still want to give it away to the States. Do you not think that we ought to begin to collect our debts in order to pay on this deficit? For that reason I think hearings are absolutely necessary. I think we would be failing in our duty if we did not have them and, therefore, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERSONAL EXEMPTIONS IN THE CASE OF AMERICAN SAMOANS

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1467) to amend section 152(b)(3) of the Internal Revenue Code of 1954 for the purpose of including nationals of the United States within the definition of the term "dependent" in connection with deductions for personal exemptions, also unanimously reported.

The Clerk read the title of the bill.

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

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, and it is not my intention to object, but I do so in order to yield to the gentleman from Arkansas, the chairman of the committee, for an explanation of the bill.

Mr. MILLS of Arkansas. I thank my friend for yielding.

Mr. Speaker, H.R. 1467 extends the present definition of a "dependent" for purposes of claiming an income tax personal exemption to include a "national" of the United States. As I will explain in just a moment, this relates to persons born in American Samoa.

Under present law, the term "dependent" does not include any individual who is not a citizen of the United States, unless the individual is a resident of the United States or of a country which is contiguous to the United States, or of the Canal Zone or of the Republic of Panama.

A special problem has arisen insofar as the parents of children of American Samoans are concerned. White individuals born in the Virgin Islands and Guam are citizens of the United States and may, therefore, qualify as dependents, individuals born in American Samoa are not citizens of the United States. As a result, an American Samoan who has income which is subject to U.S. taxation may not claim his children, or other individuals who may otherwise be qualified, as dependents in computing his income tax. This has created a particular hardship for American Samoans who are working in the United States either as civilians or as members of the Armed Forces.

The Ways and Means Committee believes that this disparity in treatment should be removed and that a national of the United States paying U.S. income tax should have the opportunity to claim personal exemptions in the same manner as citizens of the United States.

The bill, therefore, provides that a "national" of the United States, who is otherwise eligible, may be claimed as a dependent for purposes of computing taxable income. The term "national of the United States" is defined in the United States Code as a citizen of the United States, or as an individual who, though not a citizen, owes permanent allegiance to the United States. The bill also provides that the provision which limits to one the number of personal exemptions which may be claimed by nonresident aliens who are not residents of a contiguous country is not to apply in the case of a national of the United States.

The bill provides this relief for what we estimate to be 100 to 150 persons. If we assume there are four dependents in each of these cases—which they tell us is about right—that is four $750 exemptions per case, and applying the approximate rate results in the annual maximum Government loss of $100,000. But I would rather reverse it and point to the fact that, because of the present law, we are not losing money in this instance, but we are collecting $100,000 more from these people than we collect from any other similar families in the United States.

For the life of me, I do not understand why, when we find an inequity in the law, a discrimination of this sort, any member of the committee would insist we drag these 100 people from Samoa to come to the United States and have them appear before the Ways and Means Committee to tell us that they recognize the validity of our statement that they are being discriminated against. I know my friend, the gentleman from Texas, would not want to subject them to the cost of coming here for the sake of any savings this bill would give them.

Mr. Speaker, this bill has been reported unanimously by the Ways and Means Committee and its enactment is favored by the administration. I urge the adoption of this bill.

Mr. BYRNES of Wisconsin. Mr. Speaker, would the gentleman from Texas like to have me yield?

Mr. PATMAN. No, Mr. Speaker.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 1467, which would amend the Internal Revenue Code to include the U.S. nationals in the definition of the term "dependent" in connection with determining personal exemptions for income tax purposes.

The bill would have special impact on American Samoans who, unlike natives of other unincorporated territories of the United States, are still considered U.S. nationals. Natives of Guam and the Virgin Islands were brought under the citizenship umbrella through the organic acts and similar legislation, but nothing has been done to change the status of American Samoans.

The committee was informed that this has had an adverse effect, particularly on those American Samoans working in the United States or for the U.S. Government as civilians or members of the Armed Forces. These people have to pay Federal individual income taxes, but, because they are nationals and not citizens, they are precluded from treating their parents or children, who also may be nationals, as dependency exemptions on their tax returns. They are additionally denied exemptions for their wives or husbands, because the law limits them to only one personal exemption.

The committee felt this disparity should be ended, and that a U.S. national should have the same opportunity to claim personal exemptions as citizens now have.

Revenue loss resulting from enactment of this bill has been estimated at just $100,000 annually over the next 3 years.

No objection to H.R. 1467 was voiced to the committee; it was unanimously ordered reported, and I strongly urge the House to approve it at this time.

Mr. Speaker, I withdraw my reservation of objection.

Mr. PATMAN. Mr. Speaker, reserving the right to object, of course the gentleman from Arkansas knows the question of having these 100 people come from Samoa would not be required.

Mr. MILLS of Arkansas. But the gentleman from Texas wants a hearing, and I do not know how the gentleman will have a hearing without witnesses.

Mr. PATMAN. But there are Congressmen who could testify at the hearings.

Mr. MILLS of Arkansas. Will the gentleman tell me the name of the gentleman from Samoa? Who is he in the Congress? I am representing the Samoans right now.

Mr. PATMAN. The gentleman is a very kind and generous person, and I know he would represent anybody that has hardships, and he has disclosed some hardships in this instance. I know he would be glad to represent them and not have them come to a hearing.

But that is not what I am talking about. I know the distinguished gentlewoman from Hawaii has been done a great disservice in not having a public hearing and having witnesses to substantiate and document these facts. Then we would have something of a permanent record, and we would have legislation in the manner which was contemplated by the rules of the Congress of the United States and the laws of our country. Why should anybody object to a public hearing? We cannot get complete justice unless we have a public hearing.

So, Mr. Speaker, notwithstanding my protest of the need for public hearings and other things not being done that should be done by a committee of the House, I shall not object.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 1467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 152(b)(3) of the Internal Revenue Code of 1954 is amended by inserting immediately after the word "citizen" the words "or national."

With the following committee amendment:

Strike out all after the enacting clause and insert:

That (a) section 152(b)(3) of the Internal Revenue Code of 1954 (defining the term "dependent") is amended by striking out "citizen of the United States" each place it appears and inserting in lieu thereof "citizen or national of the United States".

(b) Paragraph (3) of section 873(b) of such Code (relating to deductions in case of nonresident alien individuals) is amended to read as follows:

"(3) PERSONAL EXEMPTION.—The deduction for personal exemptions allowed by section 151, except that only one exemption shall be allowed under section 151 unless the taxpayer is a resident of a contiguous country or is a national of the United States."

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1970.

The committee amendment was agreed to.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 1467, which will allow U.S. nationals who are subject to Federal income taxes to claim all dependency exemptions to which they would be entitled if they were citizens, and to allow American Samoans to be claimed as dependents even though technically they do not reside in the United States.

This bill applies only to American Samoans, who are the only U.S. nationals we have. The present law has two inequities regarding American Samoans. This bill will correct both of them. First, under existing law a "dependent" must be a citizen or resident of the United States, or reside in the Canal Zone or in the Republic of Panama, or in a contiguous country—that is, Mexico or Canada. American Samoans are held not to reside in the United States or in any contiguous country and therefore cannot be claimed as a dependent. Second, although as U.S. nationals American Samoans normally do not pay Federal income taxes, if they enlist in the armed services they then become subject to our tax laws. In the case of an American Samoan who enlists in the armed services from Samoa, as a nonresident alien by definition in the Code he is only entitled to a single exemption no matter how many family dependents he may have, including his wife and children. The taxpayer non-U.S. resident American Samoan can claim but one exemption even though his dependents may in fact reside in the United States.

This latter inequity in the law is especially unjust to those American Samoans who have demonstrated their allegiance and loyalty to the United States by enlisting in one of the armed services. Despite the willingness to serve they are allowed only one exemption regardless of how many dependents they have, because of this provision in the law.

H.R. 1467 will correct this inequity by allowing American Samoans who become taxpayers to claim the same exemptions as any citizen or alien resident of the United States. If we can allow nonresident citizens of Canada and Mexico who work in the United States to fully claim all their dependents, it certainly seems to me that we should also allow our own U.S. nationals who pledge their allegiance to us to receive at least the same benefits and exemptions as do these contiguous aliens. It should be noted that H.R. 1467 was passed unanimously by the Committee on Ways and Means. It has the full support of the enminent chairman (Mr. MILLS) and all of the distinguished members of the committee as well as the approval of the Treasury Department. H.R. 1467 seeks to provide relief for a very small group of forgotten taxpayers who are presently being required to bear an unfair burden because of their unique citizenship status.

The loss to the U.S. Treasury by passage of this bill will be very minimal. It has been estimated by the Committee on Ways and Means, and concurred in by the Treasury Department, that the revenue loss will amount to only $100,000 a year during the first 3 years of its applicability. So, the bill will have no impact of any consequence on our revenues, but it will provide equitable treatment for those affected by its passage.

The bill as reported by the committee would apply to income earned in 1971, for which returns must be filed by this April 15. Early action by the Congress on this noncontroversial bill would greatly simplify matters for those affected, allowing them to fully claim their personal exemptions in the tax forms being submitted now. Otherwise, they would be required to file an amended return later which will undoubtedly be overlooked by most, further depriving them of a tax benefit to which they are clearly entitled.

Mr. Speaker, the present law in this matter is inequitable and highly unfair. H.R. 1467 removes this unjust tax burden borne by a small group of American Samoans. I urge the passage of this bill.

Mr. MATSUNAGA. Mr. Speaker, it is a pleasure to rise in support of H.R. 1467, introduced by my able and distinguished colleague from Hawaii (Mrs. MINK), which would help to correct several inequities now visited on American Samoans by our income tax laws. The present law discriminates particularly against an American Samoan working for a company in the United States, or one who is a member of the Armed Forces. American Samoans, as my colleagues may know, are subject to the military draft. Such a person finds that his income tax payments are substantially higher than his counterpart who is an American citizen. First, his American Samoan wife, children, or dependent parents do not qualify as "dependents" under the current Internal Revenue Code definition. Even if they did qualify, present law forbids him from claiming more than one personal exemption.

By permitting the claiming of American Samoans as dependents, and by removing the artificial limitation on the number of dependent exemptions an American Samoan taxpayer may claim, H.R. 1467 will remove a disparity in treatment which cannot be justified.

The Ways and Means Committee reported H.R. 1467 by unanimous voice vote, and I concur wholeheartedly in the committee's judgment that—

A national paying U.S. tax should have the opportunity to claim personal exemptions in the same manner as citizens of the United States.

I urge the House to approve this equitable measure.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans."

A motion to reconsider was laid on the table.

EXEMPT STATUS OF VETERANS' ORGANIZATIONS

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11185) to amend the Internal Revenue Code of 1954 with regard to the exempt status of veterans' organizations.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 11185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501(c) of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(19) A post or organization of war veterans, or an auxiliary unit or society of, or

trust or foundation for, any such post or organization—

"(A) organized in the United States or any of its possessions, and

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual."

(b) Section 512(a) of such Code (relating to definition of unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(c)(19).—In the case of an organization described in section 501(c)(19), the term 'unrelated business taxable income' shall not include income derived from payments by members for life, sick, accident, or health insurance, to the extent such income is used for purposes for which the organization was established."

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual."

(b) Section 512(a) of such Code (relating to definitions of unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(c)(19).—In the case of an organization described in section 501(c)(19), the term 'unrelated business taxable income' shall not include income derived from payments by members for life, sick, accident, or health insurance, to the extent such income is used for purposes for which the organization was established."

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.

With the following committee amendment:

Page 2, strike out line 7 and all that follows down through line 14 and insert:

"(4) Special rule applicable to organizations described in section 501(c)(19).—In the case of an organization described in section 501(c)(19), the term 'unrelated business taxable income' does not include any amount attributable to payments for life, sick, accident, or health insurance with respect to members of such organization or their dependents which is set aside for the purpose of providing for the payment of insurance benefits or for a purpose specified in section 170(c)(4). If an amount set aside under the preceding sentence is used during the taxable year for a purpose other than a purpose described in the preceding sentence, such amount shall be included, under paragraph (1), in unrelated business taxable income for the taxable year."

Mr. MILLS of Arkansas. Mr. Speaker, H.R. 11185 deals with the tax-exempt status of veterans' organizations and the treatment of their insurance activities under the tax laws.

Present law provides income tax exemptions for 18 different types of organizations. However, there is no specific category for veterans' organizations. Nevertheless, these organizations generally qualify for exemption as either social welfare organizations or social clubs.

In addition to their general activities, some of these veterans' organizations also provide insurance for their members and the dependents of their members as commission agents for insurance companies or as self-insurers. Before 1969, there was no tax on the insurance income of these veterans' organizations since the unrelated business income tax did not apply to social welfare organizations or social clubs, the exempt categories under which they are classified. However, the Tax Reform Act of 1969 extended the application of the unrelated business income tax to virtually all exempt organizations including these two categories under which the veterans' organizations are classified. Since that change, questions have been raised as to whether the income derived by veterans' organizations from their insurance activities is now subject to the unrelated business income tax.

The committee concluded that the veterans' organizations should not be taxed on this insurance income since other exempt organizations are permitted to insure their members without being taxed on the income from this activity. In this respect the 1969 act provided that, in the case of employee's beneficiary associations, investment and other nonbusiness income, such as from their insurance activities, is not to be taxed if it is set aside: First, for life, sick, accident or other benefits; or second, for religious, charitable, educational purposes, and so forth. It was also made clear in a committee report on the 1969 act that income from insurance activities of fraternal beneficiary associations was exempt from the unrelated business income tax. Your committee concluded that similar treatment should be provided for exempt veterans' organizations.

As a result, the bill creates a separate exemption category for veterans' organizations. It also provides that income a veterans' organization receives from insuring its members and their dependents is not to be subject to the unrelated business income tax to the extent the income is used or set aside for the insurance benefits or for religious, charitable, educational purposes, and so forth. It is the intent of the committee that for this purpose the terms "educational and charitable" include the programs of the veterans' organizations relating to Americanism, youth, national security and other similar activities.

Mr. Speaker, this bill has been reported unanimously by the Ways and Means Committee and the Treasury Department has indicated that it has no objection to its enactment. I urge that the bill be adopted.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 11185, a bill amending the Internal Revenue Code with respect to veterans' organizations.

Under existing law, veterans' organizations are exempt from taxation either as social welfare organizations under section 501(c)(4) of the Internal Revenue Code or as social clubs under section 501(c)(7) of the Internal Revenue Code. Prior to 1969, organizations exempt in these categories were not subject to the unrelated business income tax. However, the Tax Reform Act of 1969 extended the unrelated business income tax to social welfare organizations and social clubs. Social clubs and employee beneficiary associations were also subjected to tax on their investment income.

However, in the case of employee beneficiary associations, the Tax Reform Act does not impose the unrelated business income tax on investment or other nonbusiness income that is set aside either for the payment of life, sick, or accident insurance or other benefits or for charitable purposes. Veterans' organizations sometimes provide one or more types of insurance to their members and dependents as a part of their overall activities. Whether the insurance is financed through a separate company or the veterans' organization acts as a self-insurer, the organization derives some income from this operation. It was felt appropriate to amend the law to make it clear that the unrelated business income tax applies to these activities of veteran's organizations on the same basis as it applies to similar activities of employee beneficiary associations. The present law is ambiguous in this regard and the committee's action, in providing clarification is not intended as an inference as to the treatment of this income prior to the effective date of the change in the committee's bill.

Mr. Speaker, the bill was reported unanimously by the committee and I urge my colleagues to join me in supporting it.

Mr. MATSUNAGA. Mr. Speaker, I take this opportunity to commend the distinguished gentleman from Arkansas, the chairman of the Ways and Means Committee (Mr. MILLS), for introducing and bringing to the floor H.R. 11185, legislation which would clarify the tax exempt status of veterans' organizations.

When Congress passed the Tax Reform Act of 1969, it certainly did not intend that, as a result, veterans' organizations would be required to pay taxes on income from insurance plans they were operating for their members, where that income was expended for beneficiary payments or charitable purposes. H.R. 11185 would assure that such taxation would not occur.

First, a new category of tax-exempt organization would be established specifically for veterans groups. Second, income from insurance plans operated by those organizations would be exempt from taxation to the extent that it was used for payment of insurance benefits or for charitable or religious purposes.

Mr. Speaker, H.R. 11185 would place veterans' organizations in exactly the same tax position as fraternal beneficiary associations now enjoy. I urge its passage by the House today.

The committee amendment was agreed to.

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

ESTATE TAX TREATMENT OF ANNUITIES IN COMMUNITY PROPERTY STATES

Mr. MILLS of Arkansas. Mr. Speaker, there is one more bill I should like to have considered.

Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2466) to amend section 2039

of the Internal Revenue Code of 1954—relating to estate tax treatment of annuities.

The Clerk read the title of the bill.

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

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object——

The SPEAKER. The gentleman from Wisconsin reserves the right to object.

Mr. PATMAN. Mr. Speaker, reserving the right to object. I have not found this bill. It has been called up out of order, evidently.

Mr. BYRNES of Wisconsin. I believe the gentleman will be able to find it after the explanation of the chairman.

Mr. Speaker, I yield to the chairman of the committee for an explanation of the bill.

Mr. MILLS of Arkansas. Mr. Speaker, the bill is H.R. 2466. I do not know of any rule of the House that binds us to call up bills, I must say, in the order they are listed on the whip's notice. I have called up the bills I believe no one can object to. This is why I have called them up.

This is the last bill, Mr. Speaker, because I believe we have consumed enough time of the House in this discussion.

The bill removes a discrimination in present estate tax law which operates against the deceased spouse of an employee in a community property State. It was introduced by the gentleman from California (Mr. CORMAN).

Generally, present law affords the estate tax exclusion for the value of a survivor annuity to the extent it is attributable to the contributions made by the employer. In a common law State where the spouse who is not an employee—that is often the wife—dies first, no value representing the employer's contribution is included in her estate tax base.

Now, in a community property State, however, the Internal Revenue Service has taken the position that the interest of the deceased spouse, who is not the employee, in the annuity or plan of the surviving employee spouse is subject to the estate tax. This creates a significant disparity between situations occurring in a community property State, like Texas, and those occurring in a common law State, like Arkansas, on the death of the nonemployee spouse.

The Committee on Ways and Means believed that the estate tax treatment accorded qualified plans in community property States should be the same as that accorded such plans in common law jurisdictions.

To meet this problem the bill provides an exclusion from the gross estate for estate tax purposes of the value of any interest of a spouse in employee contracts, where three conditions exist. First, an employer must have made contributions on behalf of a qualified plan or retirement annuity contracts purchased by educational or other charitable organizations. Second, the amount involved must not be considered as contributed by the employee. Third, the spouse who is not the employee must predecease the spouse who is the employee. If these three conditions exist the value of the interest of the spouse who is not the employee is to be excluded from her gross estate to the extent that it is attributable to community income of the employee.

This bill therefore equates the estate tax treatment that occurs upon the death of a spouse who is not the employee in a community property State with that which results upon the death of a similar nonemployee spouse in a common law State.

We did not think it was necessary for us to bring in people and have them tell us what we already knew; namely, that this is discrimination against the people in the community property States and should be eliminated. The committee bill does eliminate this discrimination.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 2466, a bill amending the Internal Revenue Code to provide comparable treatment for the taxation of annuities in community property and common law States.

Under existing law, the gross estate of a decedent includes the value of an annuity if the decedent at his death had the right to receive the annuity. There is, however, an exception to this rule, that excludes from the gross estate of the decedent the value of any annuity not attributable to the decedent's own contributions. The exception is generally limited to annuities payable under tax qualified pension plans.

In community property States, if an employee who is entitled to receive an annuity under a tax qualified plan is predeceased by his spouse, the spouse is determined to have an interest in the annuity that the surviving employee is entitled to receive. In the case of common law States, this is not a problem since if the employee's spouse predeceases him, the deceased individual is not determined to have an interest in the pension rights of the surviving spouse.

The bill before the House does not change the basic general rules of existing law, but does include amendments that would provide individuals residing in community property States with the same treatment that individuals receive who reside in common law States.

I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

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

Mr. PATMAN. Mr. Speaker, reserving the right to object, this bill could be a good bill or a bad bill. It could be either one, depending on its administration.

It has many appearances of being good, and we would be sure of that if we had had public hearings on these bills. I think it is very unfair to Members of Congress to bring in a bill that has had no consideration in the way of public hearings. You cannot have representative government and you cannot have a democracy unless you follow the rules which provide for democracy. We are not following these rules here. We are voting at least for these bills to be passed without any real knowledge of what is behind them. We do not know. We have no documentation; we have no testimony of witnesses; we are in the dark on them. It is possible that we are right in voting for them. It is also possible that we are wrong in voting for them. It is possible that some of them are a raid on the Treasury. We know we have had raids on the Treasury with this type of bill just like this. I am not saying that this is one, but last year I think the Committee on Ways and Means passed 50 bills like this.

Is that correct, Mr. Chairman?

Mr. MILLS of Arkansas. Something like that, I would think. Yes, the number is approximately correct. They were bills unanimously reported.

Mr. PATMAN. Do you know what was in them?

Mr. MILLS of Arkansas. Yes, I do.

Mr. PATMAN. Of course you do not.

Mr. MILLS of Arkansas. You mean to say I do not know what was in them? I think I know more about what is in my bills than someone else who is not on the committee.

Mr. PATMAN. But the gentlemen of the House do not. I presume the chairman knew and I believe he did, but the rest of us do not know. There were 50 bills for 50 raids on the Treasury of the United States. Now, that is not the right way of legislating in this country.

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. PATMAN. I yield to the gentleman.

Mr. MILLS of Arkansas. That characterization is not accurate in my opinion, or in the opinion of the Committee on Ways and Means. Now, as to these bills today, I did not think the gentleman wanted to appear before the committee on something which did not affect his district. Does the gentleman want me to notify him on every bill we consider? If you will write me about every bill that comes up in your committee and ask me if I want to be heard on them, then I will do the same thing for you.

Mr. PATMAN. I do not consider that fair.

Mr. MILLS of Arkansas. I do not consider it a very practical suggestion to have hearings on bills where witnesses do not want to testify, where no request has been made, where we already know what the situation is and where it would just result in additional cost to the Government for no valid reason.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GROSS. Mr. Speaker, is horse trading permitted on the floor?

Mr. MILLS of Arkansas. It is not. We were not trading horses, were we?

Mr. PATMAN. That is right.

But notwithstanding all of these objections, I do resent it and I hope that the Ways and Means Committee will not use this procedure in the future. How many years has this practice been carried on by the Committee on Ways and Means?

Mr. MILLS of Arkansas. This procedure has been followed long before I came to Congress.

Mr. PATMAN. That is, for members of the Committee on Ways and Means principally, is it not?

Mr. MILLS of Arkansas. No, no. That is not correct. Most of these bills today are for Members other than members of the Committee on Ways and Means.

Mr. PATMAN. A lot of them are for members of the Committee on Ways and Means.

Mr. MILLS of Arkansas. No; I do not believe most of them are.

Mr. PATMAN. The majority of them are.

Mr. MILLS of Arkansas. I think the great majority of them were introduced by other Members than those of the Committee on Ways and Means.

Mr. PATMAN. Well, in any event they could involve the revenue loss of millions and millions of dollars.

Mr. Speaker, notwithstanding the fact that they did not have any hearings, and my protest and regret that we do not at least conform to the rules of representative government, representative democracy, I shall not object.

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

Mr. ASPIN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. REUSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. REUSS. Mr. Speaker, we have now completed, as I understand it, the item on the calendar entitled "Unanimous Consent Bills From Ways and Means Committee." Some of them have been passed or some have been enacted and some of them have been objected to.

Are Members justified in concluding that this item of the calendar is now concluded and they will not be subjected in their absence from the floor to a repetition of the calendar?

The SPEAKER. The Chair doubts that that is a parliamentary inquiry, but if the Chair properly understood the chairman of the Committee on Ways and Means, he has indicated that this was the last bill he would ask to call up today.

Mr. MILLS of Arkansas. Yes; today.

Mr. REUSS. I thank the Speaker and the gentleman from Arkansas.

Mr. MILLS of Arkansas. But, the list stands and if we do not pass them this way, we will have to get another way to pass them.

Mr. KAZEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. KAZEN. Did someone object to H.R. 2466?

The SPEAKER. Yes; that was objected to, the Chair will advise the gentleman.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

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

There was no objection.

NOISE CONTROL ACT OF 1972

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 828 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 828

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, 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. 11021) to control the emission of noise detrimental to the human environment, 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 Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

Mr. Speaker, with the din of the heated debate on the Union Calendar over, I believe we can now shift our attention to noise pollution and its effect on our health. But while on the subject of health, I heard on my way over to the floor that the people of Taiwan have discovered something worse than the Hong Kong flu; it is "the Peking flight."

Mr. Speaker, House Resolution 828 provides for consideration of H.R. 11021, which, as reported by our Commitee on Interstate and Foreign Commerce, provides for a program to control the emission of noise which is detrimental to the human environment.

Because the committee report was not filed until Saturday, February 19, 1972, and, excluding Sunday and the legal holiday which followed, the 3 calendar days had not intervened before the bill was scheduled for floor consideration, as required under rule XI, clause 27(d)(4), the resolution provided for a waiver of that requirement to avoid any point of order. However, since the bill was rescheduled for floor consideration for today the waiver is no longer required.

Mr. Speaker, the resolution provides an open rule with 1 hour of general debate, and also makes it in order to consider the committee substitute now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. Upon conclusion of consideration of H.R. 11021, the resolution further provides that the Committee of the Whole shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.

Mr. Speaker, the Environmental Protection Agency reports that noise appears to affect to a measurable degree of impact at least 80 million persons, or approximately 40 percent of the present population of the United States. Of that number, at least one-half are believed to be risking potential health hazards, hearing impairment in particular, as the result of long enduring exposure to noise.

On a more selective basis, occupational noise has long been known to cause various degrees of hearing impairment among some of the working population. The number of persons engaged in occupations in which there exists a definite risk of hearing impairment is estimated to be as high as 16 million.

The growth in numbers of sources of noise in recent years underscores the need for legislation such as H.R. 11021. Obviously, not all noise will pose a potential hearing impairment hazard. Therefore, any program to control noise must be reasonable and, in order to be successful, must be grounded on several basic considerations: First, the sources of noise that jeopardize human health or welfare must be identified; second, noise emission standards must be established; and, third, an abatement or enforcement machinery must be provided.

Mr. Speaker, H.R. 11021 is designed to do all of these things. Except for aircraft noise control standards and regulations, over which the Federal Aviation Agency will exercise primary responsibility, the Environmental Protection Agency is empowered to carry on a comprehensive program of noise abatement and control. Citizen suits are authorized against violators and the EPA administrator is authorized to assess and collect in civil action penalties of not more than $25,000 for each violation.

The bill also authorizes appropriations in the amount of $3 million for fiscal year 1972, $6 million for fiscal year 1973, and $12 million for fiscal year 1974, plus $1 million for fiscal year 1972 and $2 million for each of the next 2 fiscal years for the payment of additional costs of certifying low-noise-emission products.

Mr. Speaker, I urge the adoption of House Resolution 828 in order that H.R. 11021 may be considered.

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

Mr. MATSUNAGA. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, does it not appear to the gentleman that with this $12 million for the fiscal year 1974 that there will be a very nice little empire of employees built under the terms of the

money to be authorized and appropriated for this new outfit in Government?

Mr. MATSUNAGA. I do not believe so. As the gentleman may well concede, $12 million is much too small a sum with which to build an empire. With costs as high as they are today even Caesar could not do it. This bill was reported out of the Committee on Interstate and Foreign Commerce, without any objection, in its recognition that there are many, many items which are being produced today which need to have their noise emission controlled and the sum of $12 million would constitute a mere drop in the bucket, if it were sufficient at all.

Mr. GROSS. Perhaps a drop in the noise bucket; is that it?

Mr. MATSUNAGA. We hope that when the drop is made, its consequence will be that there will be no deleterious noise.

Mr. GROSS. Does not the gentleman agree that the expenditure of $21 million will likely result in the creation of another administrative empire, and especially in terms of this beautifully titled new committee—the Low-Noise-Emission Product Advisory Committee.

When they dream up better titles than that, I do not know whether I want to be around here. But when this section goes on to provide that they can hire an unlimited number of people at the supergrade level of GS–18; does not the gentleman think there ought to be some brakes put into this legislation to control the hiring of people?

Mr. MATSUNAGA. As the gentleman knows, the primary administrative function will be performed by the Environmental Protection Agency which is an agency already in being. Perhaps that question should be put to the chairman of the committee during the general debate on the bill itself. But I am confident that the committee in reporting this bill out considered all the questions that the gentleman now raises.

Mr. GROSS. I only asked the gentleman the question I did because he lauds this as a great bill.

Mr. MATSUNAGA. As the gentleman knows, noise is truly a big pollution problem today. I support the bill because it proposes a solution to this problem. The $12 million will be an investment in the good health of our people, particularly those 80 million Americans whose hearing is daily placed in jeopardy because of the existing sources of noise.

Mr. GROSS. Perhaps we should have had it earlier this afternoon and applied to what took place on the House floor.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MATSUNAGA. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, as the gentleman from Hawaii has explained, House Resolution 828 provides an open rule with 1 hour of debate for the consideration of the bill (H.R. 11021), the Noise Control Act of 1972.

Mr. Speaker, I would like to call the attention of the gentleman from Iowa who just engaged in a colloquy with the gentleman from Hawaii that the total authorization in this bill is $26 million rather than $21 million.

The gentleman overlooked $5 million in this legislation.

Mr. GROSS. If the gentleman will yield, I am sorry I made that mistake and thank the gentleman from Nebraska for his correction.

Mr. MARTIN. I know the gentleman is a great student of legislation that we have before us and I did want to call that to his attention, because in addition to the $21 million, there is an additional program cost where the bill authorizes $1 million for the fiscal year 1972 and $2 million for each of the 2 succeeding years for the Federal agencies to pay the necessary additional amount for low-noise emission products.

So the total authorization of the bill is $26 million.

Mr. Speaker, this legislation was reported out of the Committee on Interstate and Foreign Commerce unanimously. I support the rule and I support the legislation. I reserve the remainder of my time.

Mr. MATSUNAGA. Mr. Speaker, having no requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. 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. 11021) to control the emission of noise detrimental to the human environment, and for other purposes.

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

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. 11021, with Mr. BENNETT 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 West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. NELSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman and Members of the House, I rise in support of the bill which came out of our committee. I think it is a good bill. I think it is one that we need. The legislation looks ahead a little bit before the Nation really gets into desperate trouble on the noise situation. We are in enough trouble already in this respect.

Noise is affecting millions of people physiologically, psychologically, and sociologically at the present time. We have proof that many people in our mental institutions have been put there as the result of excessive noise and irritation caused by noise. Noise affects the body physically and can cause different diseases. Certainly it is a sociological problem.

The bill had several days of hearings in the subcommittee. It came out of the subcommittee unanimously. It came to the full committee, was discussed there in executive session, and came out of the full committee unanimously.

The subject was brought to our committee by the administration, and we were told of the importance of the situation at the present time.

My colleague from Illinois (Mr. SPRINGER) and I introduced the first bill that was introduced. It came to the subcommittee. There were substantial changes made in it. The bill now before the committee is, I think, a much better bill than the first bill that was sent to the Hill.

There are three or four main propositions stated in the bill.

The program would be administered by the EPA, which already has an office set up for that purpose. EPA would coordinate the major noise control programs of seven Federal departments and agencies, as well as 12 minor programs conducted by other agencies. Besides that, EPA would work with the FAA in trying to solve the noise problems of our airlines and airplanes. Under the Federal Aviation Act we have provided that there be substantial noise research and control. We found that noise has to be considered along with safety and safety comes first before we can consider anything else. We shall try to work on the noise problems and we shall make progress.

We hope within the next few years we will have planes that will not make any noise that will be objectionable.

An objection was raised a moment or two ago about a special committee that would be established. There will be men and women—and I assume we would have some women as part of that committee—who are experts and who will be called in occasionally to advise and help on noise problems. They are paid at the GS–18 rate and only a per diem and only for the time they are there. I think most Federal agencies have such advisory committees. As I say, these are people who are specialists from the manufacturing field, or other fields and who have some special knowledge. They are brought in to help.

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

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

Mr. GROSS. If the gentleman will yield, I would refer him to the language on page 59 of the bill where he will find there are no limitations as to numbers of new employees and the limitation as to pay is GS–18, which is a supergrade.

Mr. STAGGERS. We say that they shall be a reasonable number on this advisory committee, and they shall be paid only for the days they work. I cannot conceive of the administration bringing in a vast group of people here to advise on the noise issue. I just think it would be a reasonable size group.

Mr. GROSS. If the gentleman will yield further, this bill authorizes $21 million, largely if not all of it for administrative purposes. Does it not?

Mr. STAGGERS. This authorization is for 3 years. As I said, the bill requires coordination of 18 different agencies, and it does this too:

It applies to inspecting prototype engines and other parts that contribute to noise. This is where the money will be spent in this field. Just a small part of the funds will be for the administration.

Mr. GROSS. If the gentleman will yield further, if the administrative is now in being, why do we supply this additional money? Why is this huge expansion provided for in the bill?

Mr. STAGGERS. We call for more research and better testing methods. Actually they are going to buy certain prototypes and test them and see how they work. Then they are going to set standards on each one of those new products which constitute major noise sources.

There will be on the labels which are required under this bill information telling what noise will be of the product or how much the product will reduce noise.

Each State or community will still have the right to say this is a hospital zone and certain vehicles cannot go through there, or trucks may not use certain avenues. We leave that to the States or localities. We do try to set standards for new products and there will have to be a great deal of research to find out what the noise levels are that will hurt human beings psychologically and physiologically and sociologically.

We cannot wait until the year 2000, until after everybody has serious problems with noise. We think that will be too late. This is an attempt to look ahead before that occurs. This is serious now. If the gentleman happens to be in an area where there is a serious noise problem, he will know the people cannot sleep at night. I have been in some of those areas, and I do not see how people can get their sleep and do their work in the daytime under such conditions.

Mr. GROSS. If the gentleman will yield further, there are other things that are becoming serious in this country, and one of them is the state of this Nation's finances which is of crisis proportions.

Mr. STAGGERS. I would agree with the gentleman.

Mr. GROSS. I am going to look long and hard before I vote for a total of $26 million to be expended in this fashion and for this purpose.

Mr. STAGGERS. I agree with the gentleman that this is one of the problems. The administration and the committee in its wisdom thought it was imperative to be done and to be done now.

With this explanation of this bill and what it does, I urge every Member of the House to vote for it. It is with vision, looking into the future, that we need to take care of the problem now.

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

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

Mr. ADDABBO. In view of the colloquy held with the gentleman from Iowa, and the growing problem of possible damage to hearing, et cetera, could the gentleman explain to me why, under section 7, "aircraft noise standards," the FAA is retained as the custodian of noise decibels and not the EPA, especially in view of the fact that the FAA has had this authority for the past 3 years and has not set noise decibels, has not fulfilled the obligation given to it by congressional direction?

Mr. STAGGERS. They are working on it, I say to my colleague from New York, and hope to come up with an engine which will be within the limits, and far below the limits. I believe this is possible, from the information I have received.

We said that safety should come first. That is the reason why we left it with the FAA. The EPA or some other agency might not know about safety, and might come out to say, "you can have so many decibels of noise on takeoff and landing," and several hundred people or perhaps thousands might be killed. We say it has to be within the limits of safety.

They will reduce this noise, and hopefully within the next 5 years will have reduced this to the point where people can sleep at night.

As the gentleman knows, in several cities such as Washington, D.C. the jets cannot come in after 11 o'clock at night and cannot take off until after 6 o'clock in the morning.

Mr. ADDABBO. We do not have that privilege in and around Kennedy Airport, where they take off 24 hours a day.

We would rather have the EPA set the noise decibels, with the FAA acting as consultant, rather than vice versa.

Mr. STAGGERS. I do not believe they can possibly do it. We set up the noise control under the FAA. They have been working on it faithfully. They have been doing a lot of research. I understand they will come up with something within the next few years and we will have aircraft that will not be making excessive noise.

Mr. ADDABBO. Mr. Chairman, I support H.R. 11021, the Noise Control Act of 1972. Many of the provisions of this legislation are similar to proposals which I have sponsored or supported before and I commend the members of the Interstate and Foreign Commerce Committee and the Public Health and Environment Subcommittee for their outstanding work on this legislation.

The bill before the House today would empower the Environmental Protection Agency—EPA—to control the emission of noise detrimental to the environment and to human health. The EPA would have the power to enforce noise emission standards for new products and to coordinate Federal programs relating to noise research and control.

In my own Seventh Congressional District we are faced with a most serious noise problem because of the aircraft noise and pollution from aircraft at Kennedy International Airport. It was for that reason that I sponsored the Aircraft Noise Abatement Act of 1968 which authorizes the establishment of maximum aircraft noise levels by the Federal Aviation Administration. I have been a frequent critic of the FAA for failing to enforce that 1968 law effectively and I am pleased that the committee has included a provision in this bill to give the EPA authority to request the FAA the review standards which EPA finds do not adequately protect the public but I believe that in view of the fact the FAA has not fulfilled its obligations to date by setting proper noise levels the EPA should assume this duty and I will therefore support the amendment to be offered to give the EPA that power.

Millions of Americans live near our Nation's airport and they have yet to obtain noticeable relief from the aircraft noise problem. It is my hope that this legislation will lead to more vigorous enforcement of existing law as well as provide the tools for combating the entire noise problem.

The legislation also authorizes EPA to set standards in the areas of construction equipment, transportation equipment, motors or engines; and electrical or electronic equipment. New York City is an area which should receive prime benefits from this legislation because of the heavy concentration of this kind of equipment and the volume of work in these areas.

Of particular significance from the standpoint of consumer protection—and this is a consumer bill in a very real sense—is the provision allowing citizen suits against those who violate noise standards or against agencies failing to perform their duties under the act. Such a provision will in my opinion go a long way in convincing agencies such as the FAA that they must move more expeditiously in carrying out their responsibilities.

I urge my colleagues to vote for H.R. 11021.

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

Mr. Chairman, I support this bill and I am pleased to submit for the RECORD a statement that was just handed to me from the Republican Policy Committee in support of the bill as it was reported by our committee. I believe the details of the bill have been well covered.

Mr. Chairman, the objective of the Noise Control Act of 1972 is to promote an environment for all America free from noise that jeopardizes their health and welfare.

The testimony received by the Public Health and Environment Subcommittee indicates that as many as 44 million persons in the United States have the utility of their dwellings adversely affected by noise from traffic and aircraft, and 21 million persons are similarly affected by noise associated with construction activities, and at least 40 million persons are exposed to noise potentially capable of producing hearing impairment due to the operation of noisy devices and the number of such devices and the intensity of exposure is steadily rising. Although obviously these figures are not additive, noise appears to affect to a measurable degree of impact at least 80 million persons or approximately 40 percent of the present population of the United States. Of that number roughly one-half are risking potential health hazards in terms of long-duration exposure resulting in hearing impairment.

Some may feel it is unnecessary to be concerned about noise pollution in our environment. Yet any farmer or industrial worker who operates excessively noisy equipment for a prolonged period knows it can harm his hearing and cause physical problems. Long exposure to ex-

cessive noise is known to damage human health, to create explosive community stress, and to cause structural damage to buildings.

The Environmental Protection Agency studies indicate the current population of young people will have much more serious hearing problems in their middle years than the present population, primarily because of exposure to music played at intense levels.

So we must make a start toward getting the noise problem under control before our already overcrowded cities become even more unliveable and explosive. We need to encourage the development of new equipment that will operate without excessive noise. We do not have the technology now to accomplish this task over a reasonable time period.

The hearings on the noise Control Act of 1972 brought out that 19 different departments and agencies have fragmented responsibilities for noise abatement. The clear need is to coordinate their efforts under the roof of the Environmental Protection Agency and to permit EPA in coordination with state and local authorities to develop a program to reduce noise that is clearly dangerous to human health and community welfare.

The bill affects the authority of States and political subdivisions over noise emissions in only one respect. For products other than new products to which Federal standards apply, State and local governments retain exactly the same authority they have in the absence of the standard setting provisions of the bill. The authority of State and local governments to regulate use, operation or movement of products is not affected by the bill.

The proper role of the Environmental Protection Agency and the Federal Aviation Administration with respect to aircraft noise has been resolved by the committee, and the bill leaves with the FAA the authority to establish standards but adds the requirement that they may not be prescribed before EPA has been consulted and given the opportunity to make suggestions on standards for aircraft. To carry out the purpose of the bill, an authorization is provided for the next three fiscal years in amounts of $3 million, $6, and $12 million, respectively.

Each day there is an increasing awareness of noise pollution, and the bill will go far in helping to prevent significant increases in noise levels by setting up government machinery to help control noise pollution—the greatest nonkilling health hazard in America today. I recommend the Noise Control Act to my colleagues for their approval.

Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I was trying to get clear in my mind the other day on the way to work, just what I would say to my colleagues today to convince them that passage of H.R. 11021, the Noise Control Act of 1972, is essential.

It had just occurred to me to quote Aquinas on the majesty of seclusion for cogitation, but I lost the passage in my mind as two buses swept past me.

Samuel Clemens had something quite relevant to say of the solitude of life on the river in a simpler time, but I forgot his remark as two workmen broke through a concrete sidewalk with jackhammers.

But that was all right because there was still in my mind the vision of Lincoln as a lad sitting by the fireplace studying alone the crinkled pages of a book on English composition. Or at least that was in my mind, until a 727, not a foot overhead, screamed the image from my senses.

Perhaps it was just as well that the succession of interruptions continued. If they had not, I would have probably found the words of some long-dead tranquil fellow to bore you.

That would have been very out of place, for the present does not seemingly belong to those peaceful men who lived quietly not so long ago.

Noise and the noisy have plainly come to stay.

I urge those of you who would extend these visitation privileges to oppose this bill, naturally as noisily as possible.

I, however, support it because I recognize this measure to be a strong first step toward dealing with a basic infringement of one of the most personal rights, the right to peace.

Of course, I do not mean peace in the combatant sense, though sometimes it surely sounds as if a full-scale engagement is constantly in progress between the holes and trenches that dot like urban sinkholes this and other cities.

I mean that people need peace from the racket that can wrench from their minds whatever concrete notions may be cooking there in solitude and turn them to quicksilver, gone for good.

My colleagues and I of the Subcommittee on Public Health and Environment have worked long and hard to make this a sane and relatively inexpensive undertaking, considering the peace and quiet it is likely to regain for the American people.

The bill would impose fines of $25,000 a day on polluters of the Nation's eardrum. That is a sizable assessment, and large enough to make noncompliance genuinely unprofitable in short order.

The act is directed at noncombatant and nonresearch equipment used by the Defense Department, possibly one of the worst violators of our national auditory canal.

The EPA would gather and coordinate data on noise gathered by 17 different Federal agencies. All the information would be in one place—in position to be used against those who are deafening America.

Also labeling would tell every consumer precisely how great a headache he is buying for himself each time he purchases a nose machine.

And the price is right—$3 million this first year, $6 million the next, and $12 million in 1974.

I cannot think of a better or more important piece of legislation for the health and emotional well-being of future generations than this one. We offer this body a comprehensive, well-drawn plan that covers a problem too long left to its own noisy devices.

I cannot see how anyone on this floor can hear his way clear to oppose the measure.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. CARTER. I thank the gentleman from Minnesota for yielding this additional time.

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

Mr. CARTER. I am happy to yield to my distinguished friend from Iowa.

Mr. GROSS. Where is the excluding language in section (B)? I am looking at page 50 of the bill, section (B), the language that applies only to, did the gentleman say, combat airplanes or combat equipment of other kinds?

Mr. CARTER. That is excluded. That is not included, I will say to my good friend from Iowa.

Mr. GROSS. That is not included, but everything else is included?

Mr. CARTER. That is quite true. Yes, sir.

Mr. GROSS. In other words, if some young fellow took the muffler off his motocycle or opened the exhaust pipe to a direct outlet, he would be subject to a fine of $25,000. Is that right?

Mr. CARTER. I hardly think they would see fit to fine him that much, but he would be subject to a fine.

Mr. GROSS. He would be subject to a $25,000 fine; yes or no?

Mr. CARTER. I do not think that that would happen and I doubt if the gentleman from Iowa thinks that. The municipality, county, or State would have jurisdiction in case of the young man.

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

Mr. CARTER. Yes; I yield to my colleague from Minnesota.

Mr. NELSEN. I think the answer to the question of the gentleman from Iowa is that the manufacturer, if he puts a piece of equipment up for public sale that violates the standards, he would be subject to the fine.

Mr. CARTER. That is right.

Mr. NELSEN. Mr. Chairman, if the gentleman will yield further, the individual involved in this case, the young fellow with that loud motorcycle that you and I dislike so much, he would be regulated by local ordinances, if there are any.

Mr. CARTER. Yes; and the right of a person to bring up this objection in Federal court.

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

Mr. CARTER. Yes; I yield further to the gentleman from Iowa.

Mr. GROSS. That is a substantial part of the argument against this bill, that States and municipalities can get this job done if they want to do it by State laws and ordinances.

Mr. CARTER. I hate to disagree with my distinguished friend, but they have not done it in the past 100 years and we are taking this opportunity to assist them in doing this.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. ROGERS), the author of the bill and the chairman of the subcommittee.

Mr. ROGERS. I thank the gentleman for yielding, and will say, first of all, I want to commend all the members of the subcommittee who devoted a great deal of time to this subject and to hearing a great many witnesses.

Mr. Chairman, I rise in support of H.R. 11021, a bill which our Subcommittee on Public Health and Environment developed after careful consideration. It is our belief that this bill will assure an environment free from noise that injures the public health or welfare.

Mr. Chairman, I believe that the chairman of the full committee (Mr. STAGGERS) has given an excellent summary of the provisions of this bill, and his explanation need not be repeated. I would like, however, to briefly comment on the reasons why this bill is vitally necessary and give the Members the reasons why, in the opinion of the subcommittee, certain provisions of this legislation are vital to an effective national noise abatement program.

Although the effects on the environment caused by air and water pollution are more noticeable today than the effects of noise pollution, many responsible environmentalists believe that we are on the verge of a noise crisis which can be avoided only through prompt, affirmative legislative action.

As a matter of fact, Mr. Chairman, the experts tell us now that the noise level in this country in the last few years has increased 20 decibels, and in some urban areas it appears to be getting noisier at double that rate.

Recently, experiments conducted at the University of Tennessee reflected the fact that 40 percent—40 percent, mind you, of the freshman class coming into a university—had a hearing disability. The experts that were conducting those studies could not believe it. They said, "We think it is impossible." So they said, "Let us recheck all of our equipment, let us make sure that our methods and protocol of doing this testing is strictly in order."

The next year, after all of that checking and when the freshman class was checked, it was not 40 percent, it was 60 percent.

Now, the experts also tell us that unless we begin to attack this problem of noise in this country, by the year 2000 we may expect that three-fourths of the people of this Nation will have significant hearing impairment.

So, this is not just a problem that someone is dreaming up to try to solve. It is here with us now. One of the reasons it is with us is because of our urbanization where by the year 2000, 85 percent of the people in this Nation will live in close proximity to each other.

The major factor which accounts for the rise in noise levels and the number of areas in which disturbing noise levels exist is simply the increase in the number of noise sources. Sounds of the past, which were once regarded with affection as agreeable signs of business and human activity, have been replaced with the shriek and clank of the subway, the deafening sounds of pneumatic hammers, construction equipment, traffic, jet planes, and electronically amplified sound that becomes noise when one has to listen to it against his will. Thus, if the overall noise level in the United States is to be lowered, much of the abatement and control must be applied to the noise source itself. This is the principal premise on which this legislation is based.

I believe that the provisions relating to the limited effect of the "preemption" section—Section 6(d)(1)—deserve explanation.

Under this section, States and localities are affected only with respect to "new products" to which Federal standards apply. A "new product" is defined in the bill as a product the equitable or legal title of which has never been transferred to an ultimate purchaser. Thus, the only effect on the authority of States or their political subdivisions is that they are preempted from prescribing noise emission standards for new products to which Federal standards apply, unless their standards are identical to the Federal standards. A similar provision applies to component parts. For products other than new products to which Federal standards apply, State and local governments retain exactly the same authority they would have on absence of the standards-setting provisions of the bill. The authority of State and local governments to regulate the use, operation or movement of products is not affected at all by this bill.

Second, I believe that comment on the relationship between the EPA and the FAA with respect to aircraft noise emissions may be helpful.

The committee has established procedures whereby it is intended that a combined EPA–FAA effort will have the effect of protection of the public from excessive aircraft noise, a nationwide complaint. FAA and EPA presently have a formal relationship with respect to emission of air pollutants from aircraft, but no such arrangement exists with respect to noise pollution. The reported bill establishes such a relationship. The bill retains the authority of the FAA to establish such standards, but adds the requirement that they may not be prescribed before EPA has been consulted concerning the standards.

The FAA should have final responsibility for setting aircraft noise standards because a comprehensive and detailed knowledge of aviation technology and flight operations is essential to setting achievable standards. Federal Air Regulations part 36, the FAA noise rule, was developed on the basis of foreseeable, technological advances which could be applied to newly designed aircraft. At the time of publication of part 36—1969—the standards set reduced existing noise levels for all new subsonic jet aircraft appreciably, from about 120 EPNDB—effective perceived noise decibels—to 108 EPNDB. New aircraft, including the 747 and DC–10, have met these standards. In addition, the FAA has several regulatory actions in progress which will eventually reduce noise from all types of aircraft including sonic boom.

Final decision authority with respect to any standards affecting the aviation industry can realistically be vested only in an agency thoroughly knowledgeable of all possible impacts and consequences. The FAA is the only agency in Government which has such knowledge. The FAA is taking regulatory action as the state of the art will permit; its actions will be advised upon and oversighted by EPA. Also the Subcommittee on Public Health and Environment will closely monitor action by FAA and EPA in the noise abatement field.

Mr. Chairman, it is essential that action be initiated now, so that a national "environmental crisis" does not develop with respect to noise as has been the case with other environmental insults. The committee is of the opinion that the legislation proposed will insure that this environmental issue is met adequately and in a timely manner so that maximum effectiveness can be achieved and that the costly consequences of a failure to act will not be the case in this instance. I urge the bill's adoption.

Mr. Chairman, this bill lays the foundation to begin to do something which will be significant to the health of the people of this Nation.

I think you are going to be very proud of this piece of legislation, because it is a significant piece of legislation and will protect the health of the people of this Nation.

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

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

Mr. GROSS. So, I suppose we are going to have to wait for silent piledrivers and other heavy construction equipment? I wonder if in the meantime we will get any subways built? It might be a good thing if we did not.

But will we get subways built and highways built?

Mr. ROGERS. Let me say to the gentleman that of course there may be items you cannot do anything about.

Mr. GROSS. Does this bill cover—what do you call it?—rock music?

Mr. ROGERS. Yes; it could.

Mr. GROSS. I can tell you that can just about tear your head off if you remain long enough where it is being played.

Mr. ROGERS. I will agree with the gentleman, and the gentleman from Kentucky (Mr. CARTER) took particular interest in that. It is true that one of the most damaging of noise sources is rock music because it is amplified so loudly.

Mr. GROSS. Does the $25,000 fine apply to that?

Mr. ROGERS. It could, if standards are set on the equipment that amplifies it. EPA may set a standard respecting amplifiers; of course, we do not know as yet whether it will. That is one of the things they undoubtedly are going to look into.

Mr. GROSS. You are going to spend $26 million on that?

Mr. ROGERS. No; it is not $26 million per year; it is for a 3-year term and covers much more than that.

I think the gentleman will be pleased with what the committee has tried to fashion in a reasonable way, and with a

relatively minor amount of money, considering the bill's implications.

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

Mr. ROGERS. I yield to the gentleman from Louisiana.

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

I do not believe that anyone would purposely try to prevent the initiation of any program which would help us solve for now and for the future the problems having to do with noise.

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

Mr. STAGGERS. Mr. Chairman, I yield 5 additional minutes to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. WAGGONNER. But the matter of we go about this seems to me to be most important, and this seems to be all the more important since the Environmental Protection Agency seems to be destined to have a great deal of authority here. I am not quite sure that we can be very proud of what the EPA has done in solving some of the problems in some of the other areas we have given them authority over, having to do with water and air pollution, for example. They have not used much commonsense. They have been rather impractical.

Now I would like to ask a number of questions.

First of all, this proposal has only to do with the manufacture of new equipment and the standards which will relate to them?

Mr. ROGERS. That is correct.

Mr. WAGGONNER. There is a grandfather clause then intended to be part of this proposal which will not allow the EPA to do anything about any equipment that is already in existence?

Mr. ROGERS. Yes. That is, as I recall, the enforcement section goes only to products manufactured after the date of enactment.

Mr. WAGGONNER. I want to be sure, now; EPA will have no authority to come back and require any owner of any equipment, or factory or construction people, to modify their presently existing equipment hereafter by the establishment of certain standards?

Mr. ROGERS. That is correct, because EPA can enforce its standards only with respect to a new product, for any new products manufactured after a certain date.

Mr. WAGGONNER. All right; it is for new products?

Mr. ROGERS. That is correct. To enforce standards with respect to noises emitted from "old" products, your local communities or your State, could continue to do anything they want to.

Mr. WAGGONNER. I am going to get to that point in a minute, because I think there is a proposal in here that does away with any State or local authority where they differ from any standards that the Federal Government hereinafter may promulgate.

Mr. ROGERS. Only on new products at the manufacturer's level.

Mr. WAGGONNER. Now this has to do with construction equipment; transportation equipment; motors or engines, or equipment of which motors and engines are integral parts; and electrical or electronic equipment; is that correct?

Mr. ROGERS. Those are the main categories. But if in the study they identify any other major noise factors, they could also set standards for those at the manufacturers' level.

Mr. WAGGONNER. What I am getting at is—this has not only to do with the products that a man might now manufacture, but the equipment that the plant might utilize in the manufacture of that product; am I correct?

Mr. ROGERS. No; this goes to the new product itself. It does not go to the type of equipment used to manufacture a product.

Mr. WAGGONNER. What about a new piece of equipment that the manufacturer uses as an integral part of a motor in the manufacture of products or some other product for sale—that manufacturing equipment would be included; would it not?

Mr. ROGERS. If it is a new manufactured piece—whoever manufactured it; yes.

Mr. WAGGONNER. The gentleman spoke a minute ago about a study that had been done at the University of Tennessee. Is the gentleman saying, after his response to the gentleman from Iowa, that the EPA agency headed by one man can, if he concludes after what we hope would be proper investigation, set forth standards having to do with the manufacture of musical instruments establishing the maximum noise level at which these instruments could or would perform?

Mr. ROGERS. Well, they would have to be performance standards, as I am sure the gentleman would realize.

Mr. WAGGONNER. That is just what I am talking about—"have to perform at standards."—At whose standards? The operator of some discotheque, EPA or somebody else?

Mr. ROGERS. I might say, this committee generally requires performance standards, as you have in the Clean Air Act.

What I think they would go to is not so much the musical instruments as the amplifier—that is the main problem.

Mr. WAGGONNER. And that is an electronic instrument?

Mr. ROGERS. Sure. So I think EPA will take a look—I would hope they would—at these amplifiers so that if you go into a place, you will be assured that you are not going to be deaf when you come out. This, I am sure, they will look at.

Mr. WAGGONNER. I would bet that if we put this vote off today and let the young people of this country know something about it, you would get more protests against this legislation in 24 hours than you could answer—because they do not know that this is intended to be a part of this bill.

Mr. ROGERS. I do not agree with the gentleman at all. I do not think that is correct. I think the young people would welcome this as much as anyone else.

Mr. WAGGONNER. I do not think they would welcome a ceiling on the output of these musical instruments.

Let me talk to you about another section—with reference to citizen suits. This legislation provides for citizen suits. This it appears is intended to be available to any one individual who feels that his hearing is being affected or that he is being kept awake at night because of some noise in the next block from some construction job or something such as that. That man can enter a citizens suit against the EPA, for example; is that correct?

Mr. ROGERS. There is a provision for a citizen suit in the EPA or against the FAA but it goes only to matters that are not discretionary.

Mr. WAGGONNER. Will the gentleman tell me exactly what he means when he says—only to matters that are not discretionary?

Mr. ROGERS. For instance, where an Administrator is required by law to do something that is not within his discretion—for instance, if a law requires that a study shall be made by such and such a date and if he has not done that study by that date a citizen could bring a suit and ask why have you not done the study?

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

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. WAGGONNER. Let me pursue this a little bit further.

Mr. ROGERS. All right, but I do want to try to cover some of the answers here.

Mr. WAGGONNER. These gentlemen have been on the committee and the gentleman has been at the hearings. You have only an hour of time here and some of us are entitled to talk about this bill.

Mr. ROGERS. I thought perhaps we could do that at the time of consideration of amendments.

Mr. WAGGONNER. All right, now let us talk about matters not being discretionary. Let us assume that the FAA with the help of EPA establishes noise levels for planes coming into Washington National Airport or into any airport.

Now this is discretionary on their part, as I understand the bill that is presented to us today. If, in their discretion, they establish a noise level at which these planes are allowed to perform, would a citizen suit be in order because the administrator of FAA or EPA had used their discretionary authority to do it?

Can somebody who lives close by or in the traffic pattern of an airport enter a suit to stop those flights?

Mr. ROGERS. That would be discretionary and there could not be a suit.

Mr. WAGGONNER. It is discretionary and there could not be a suit?

Mr. ROGERS. There could not be a suit.

Mr. WAGGONNER. I am just trying to get these things clear. That is all I am trying to do.

Let me ask this question. The other day we passed a bill providing for the establishment of a Federal Legal Services Corporation. These are to be attorneys representing supposedly the disad-

vantaged. Is the Federal Government going to be in the position of allowing suits such as are provided for in this proposal to be entered against the Federal Government by those attorneys?

Mr. ROGERS. This does not go to that. The gentleman knows that. That is OEO. The gentleman may have supported that bill. I did not.

Mr. WAGGONNER. No; the gentleman did not.

Mr. ROGERS. Neither did I. But this does not go to that.

Mr. WAGGONNER. The gentleman is aware that there is no limitation in the OEO legislation that did pass the House to prevent those attorneys in the Legal Services Corporation from entering suits against the Federal Government, is he not?

Mr. ROGERS. We cannot help that. That is in another piece of legislation, as the gentleman knows.

Mr. WAGGONNER. It seems to me that you are aggravating another problem, then, by allowing citizens suits here.

Mr. ROGERS. The fact is that the provision applies with respect to nondiscretionary matters. Discretionary matters are not subject to citizens suits.

Mr. WAGGONNER. The report makes reference to a report by the President to the Congress dated January 26, 1972. Can the gentleman or can anyone on the committee tell me what that report has to say about how much equipment in operation today, in the four categories that you give the EPA authority to establish the emission levels, they presently believe exceeds the acceptable noise standards?

Mr. ROGERS. I think this is one of the areas where they say that we need further study, and that is why we provide for further study in these various categories.

Mr. WAGGONNER. Do you not think that the Congress is getting on awfully dangerous ground when we say that we have a problem, that you in EPA should do something about it, do what you think ought to be done? Do you not think that we ought to make EPA come back and get congressional approval for what they do finally propose to do?

Mr. ROGERS. We are telling them exactly that. We are telling them also that this is a 3-year bill, that we will look at it again in 3 years, and that is why we have a 3-year bill. This committee will watch very carefully.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER assumed the chair.

The SPEAKER. The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on February 15, 1972, the President approved and signed bills of the House of the following titles:

H.R. 7987. An act to provide for the striking of medals in commemoration of the bicentennial of the American Revolution;

H.R. 11487. An act to authorize the Administrator of the National Aeronautics and Space Administration to convey certain lands in Brevard County, Fla.; and

H.R. 12488. An act to change the name of the Columbia Lock and Dam, on the Chattahoochee River, Ala., to the George W. Andrews Lock and Dam.

The SPEAKER. The Committee will resume its sitting.

The Committee resumed its sitting.

NOISE CONTROL ACT OF 1972

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. I thank the distinguished Chairman for yielding.

Just as the committee rose a moment ago, the gentleman from Florida said there was a great deal that we did not know about what needed to be done, and as a result, we needed to do an awful lot in the way of studying the problem before we took some specific action.

I would like the gentleman to look at page 38 of the committee report, paragraph (b)(2). Among other things, down at the bottom of the page, we see that the EPA Administrator is going to be required to consult with such Federal, State, and interstate agencies as he deems appropriate.

Now, what would lead us to believe that knowledge exists within the Federal Government alone, and that people in industry would not have some capability? Why is not the Administrator required to consult with industry sources who have had years and years of experience, with medical authorities, as well as to consult with Federal sources?

Mr. ROGERS. This is present law the gentleman is talking about in the report.

Mr. WAGGONNER. I am talking about the language which is going to replace it. You say you must, under the new proposal, "consult with such Federal, State, and interstate agencies as he deems appropriate." Why not consult with industrial and medical authorities as well?

Mr. ROGERS. I think you will find that that is in present law that the gentleman is referring to on page 38.

Mr. WAGGONNER. No, it does not. Look at the language. It is deleting the word "administrator" and adding this other language.

Mr. ROGERS. All we are omitting is the word "administrator" and the word "rules." The section to which the gentleman refers only shows changes in existing law.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado.

Mr. BROTZMAN. Mr. Chairman, I take this time for the purpose of asking a few questions relative to the preemption section of this particular bill. If I could have the attention of the gentleman from Florida, I am referring to the preemptive sections of the bill to be found on page 41. As I read this legislation, I think the gentleman from Florida referred to it heretofore, it is my understanding that this law is designed basically to control products in the hands of the manufacturer and that as the particular product goes into the hands of the user—in other words, title has passed—the product is then vulnerable to both the State and its political subdivision's regulation.

My specific problem relates to the fact that in Boulder, Colo., the city council under the aegis of a Colorado law has passed an all-purpose type of ordinance which, I believe, will be more restrictive in some of its application than would be the proposed regulations by the Environmental Protection Agency. The City Council of Boulder has passed a resolution asking the Congress to be sure that this ordinance of the city of Boulder will not be preempted by this particular bill. I think that states the general problem. I would ask the gentleman if this bill is passed, would the Federal law preempt that local ordinance?

Mr. ROGERS. The only things we are preempting, are new products for which the administration has set standards. We are not changing the present authority of States and localities to enact their ordinances with respect to use.

I think the gentleman would notice in the bill, on page 41, that we actually state:

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to control, regulate, or restrict the use, operation, or movement of any product.

Mr. BROTZMAN. To state it another way, if the ordinance applied to noise caused by a jackhammer owned by somebody in Boulder, or a car, or a stationery motor, then the ordinance would, in fact, apply as far as those products are concerned?

Mr. ROGERS. If the ordinance is a zoning ordinance, it would not be affected. We are not changing that authority. Of course, all ordinances of this type are subject to constitutional provisions and review as to whether they are reasonable or too limited, and whether they would constitute a burden on interstate commerce.

Mr. BROTZMAN. I thank the gentleman for his response.

Mr. Chairman, I have discussed this with the gentleman from Texas, and I yield now to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his interest in this subject matter. Also I thank the committee for the work they have done on this bill.

The gentleman knows I have had some question about this provision of preemption. As a matter of fact, I offered an amendment in the committee, but I am thoroughly satisfied, in examining the committee's report, that it satisfies the objections I might have had. I went into the question of the right of a local community to control use within that community.

I have a few questions to make a bit of legislative history on this matter, if I might address them to the chairman of the subcommittee.

Mr. ROGERS. I shall be glad to try to answer.

Mr. ECKHARDT. Suppose there is a law in the State of New York that states any vehicle in the State of New York shall not be so constructed as to cause

noise at the level above a certain number of decibels.

Then suppose H.R. 11021 becomes law, but the Administrator has not yet prescribed a regulation setting a limit on noise emissions from pile drivers. May then the State continue to enforce its law?

Mr. ROGERS. Yes; because really the preemption clause contained in section 6 (d) (1) only prohibits a State or a political subdivision from adopting or enforcing any law or regulation "with respect to any new product for which a regulation has been prescribed by the Administrator." In the instance the gentleman recites, the Administrator has not even prescribed any regulation.

Mr. ECKHARDT. That is right. Suppose the Administrator subsequently prescribes a regulation governing the noise emission of pile drivers? What is the situation then?

Mr. ROGERS. In that instance, since the State of New York is purporting to include in its regulation emission controls with respect to a "new product" which has never been transferred to an ultimate purchaser, the preemption clause would preclude New York from doing that.

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

Mr. NELSEN. Mr. Chairman, I yield the gentleman from Colorado 1 additional minute.

Mr. BROTZMAN. Mr. Chairman, I yield to the gentleman from Texas.

Mr. ECKHARDT. Now, suppose the State of Texas should, unlike the State of New York, enact a law directed wholly at the use of a certain product. For instance, suppose it prohibited the use of motor boats on certain lakes of heavy residential development. Could this be done?

Mr. ROGERS. Yes, very clearly and particularly, under subsection (d) (2) of section 6.

Mr. ECKHARDT. Now, suppose the State of Texas should attempt to accomplish essentially the same thing as the New York statute concerning pile drivers was intended to accomplish, but suppose the Texas statute controlled use instead of production or assembly. Thus, Texas provides that no pile driver shall be used within the confines of the State of Texas which has a noise emission level above a certain number of decibels. Could the State so regulate?

Mr. ROGERS. Yes. Though a noise emission limit is provided, it is not applied in the area this bill is designed to control; that is, primarily the manufacture of equipment with a certain noise potential. The preemption provision in section 6(d) (1) applies only to State regulation of "new products," and "new product" is defined in section 3.

Of course, we do know all of this would have to bear any constitutional overview as to the commerce clause and requirements that statutes be reasonable and not a burden on interstate commerce.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, I rise in support of this legislation and I want to compliment the committee on what I believe has been a very competent and very far-reaching job in this whole area of noise control.

I am delighted to see the effort which was made particularly by the chairman of the subcommittee on the issue of jet noise. I know that he went into this subject matter very thoroughly, and he himself in many cases, as I have read the report and the record of hearings, was a protagonist who was looking deeply into this question of jet noise.

I was very much impressed by the hearings and the report of the committee. But nevertheless I feel that in the final analysis, although the committee considered many steps that could be taken in trying to fight jet noise, they settled on a proposal and a course of action which is really going to fall short of the mark and not do the job for the American people in an area where it should well and could well be done.

I will not argue that the FAA is not a competent agency to work on the problems of aircraft in general or the problems of jet noise. Certainly they have a competence in this field. The problem is, however, although they have competence they have shown to the Congress of the United States and to the American people a complete and utter lack of willingness to use the authority which we give them to set the limits on jet noise which they should be setting.

In other words, Mr. Chairman, it is not enough to say that the FAA is competent to do the job. The question we have to answer in this House today is whether the FAA intends to do the job and intends to do anything to utilize the powers that we gave them or whether they intend to remain, as they apparently have over the years, a very willing partner of the airline industry in keeping effective regulations from being put into effect.

Mr. Chairman, if you will look at the record of the FAA in this field, you will see that what I am saying is a fair and just statement. The Congress three and a half years ago in 1968 passed a bill which would have given and in fact did give the FAA the power to take action in the area of reducing jet noise for presently flying aircraft. Those are the aircraft making the noise and the aircraft which will be making the noise for the next decade or 15 years. We gave to the FAA the power to reduce noise in those aircraft and set limits which could have meant that they would be retrofitted with noise suppression devices to bring the levels of noise down. For three and a half years the FAA stalled us and the American people and has taken the position that industry wanted them to take and done nothing.

This does not go to the competence of the FAA to set the standards but, rather, goes to their lack of desire to set the standards. In that area, Mr. Chairman, they have let us and the American people down. That is why I say today that the bill you are presenting to us, although it is hopeful and with good intentions, will not do the job.

Just a few days ago, to make matters worse, the Administrator of the FAA, Mr. Shaffer, made a speech in New York City, which was reported in Aviation Daily. He stated that he considers jet noise will not be an issue by 1978. I do not know what he means by that. We have clear testimony before my Committee on Science and Astronautics that this matter will certainly be a national issue in 1978 and for years thereafter. Mr. Shaffer indicated at that meeting he did not think it was a wise use of money to retrofit airplanes in fact. He thinks it is a waste of money, to do it.

Mr. GROVER. Will the gentleman yield?

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

Mr. GROVER. I attended a couple of years ago some ad hoc hearings that the gentleman sponsored, and I know he has been one of the leaders in the Northeast in attempting to get a handle on this matter of aircraft noise. He had some hearings at very appropriate locations. For example, at the end of runways, with a decibel machine, and one that I attended in a schoolroom. I was really shocked at that time to see the impact, the disruption in the classrooms and the disorder created by the jet noise made in these areas near the airport.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. WYDLER. I yield further to the gentleman.

Mr. GROVER. I did want to ask the gentleman, in the past several years since attending those hearings, whether anything has been done in that area in that particular location in New York.

Mr. WYDLER. The sad answer to the gentleman's question is "No," because we have to get on with the job of retrofitting our currently flying aircraft, and there was no desire in FAA to do that. As a matter of fact, there is a complete indication here in Mr. Schaffer's statement that they do not intend to do anything about it. I have been after the FAA for the last three and a half years trying to get them to start procedures—just start rulemaking procedures—to set limits. Promise after promise has been made to me that they would start their procedures on such and such a day and do this without fail. Yet right up to the present time they have refused to undertake it.

All I am asking the committee to consider—and I think they should consider this—is not to throw the FAA out of the picture but, instead, to put the EPA in the driver's seat. Let them take control of the situation so that they can get the procedures moving and get us on the way to solving the problem.

Mr. ROGERS. Will the gentleman yield?

Mr. WYDLER. I will be glad to yield to the chairman of the subcommittee.

Mr. ROGERS. I have shared the concern of the gentleman from New York. However, I will say to the gentleman that we went into the problem in some detail and this was one of the thorniest ones we had to decide. I think the committee did exercise proper judgment in saying that the final decision will be left with

FAA. However, we have cranked in EPA right in the beginning and require them to advise and consult with FAA. If EPA is not satisfied as to what FAA has done they can request FAA to revise its actions. Then if EPA still is not satisfied, they can require that the disagreement and supporting data be made part of the public record and alert the whole Nation to the problem.

Mr. WYDLER. Although you give EPA a consulting role they cannot do anything unless FAA takes some action.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield further, first of all, the law will require that issuance of original-type certificates must, in most instances, be preceded by issuance of noise standards to protect the public. This requires action.

Second, at any time EPA thinks there has been inaction, EPA can direct FAA to review existing regulations and in this way make "inaction" a matter of public record which puts it in immediate controversy.

What we have tried to do is to be realistic.

We think FAA with reference to noise from aircraft in the air must have a final say on this problem. Frankly, I do not think EPA yet has the competence to move into this area. They do not know all of the intricacies involved in the design of aircraft or flight patterns and other matters, but there is presently expertise in FAA. We have tried to bring EPA into it as strongly as we can without risking safety so they can alert the whole public.

I can assure the gentleman that we will be on top of it and that we will work with EPA and FAA.

Mr. WYDLER. I know that the intentions of the gentleman are good, but I think the EPA has access to the expertise, if they utilize the people in FAA, and I am sure that FAA will not withhold their counsel and advice.

Mr. ROGERS. Let me give you an example. EPA came forth with the proposal before our committee that FAA should have to set a noise standard every time any type certificate was issued. Does the gentleman know how many type certificates are issued for an aircraft? There could be 200 or 300 certificates. EPA simply does not have the competence at the present time. They simply do not have the knowledge yet, but they will.

We will look into this in 2 or 3 years and we will change it if need be, and I assure the gentleman we will stay on top of it.

Mr. WYDLER. I just do not want the people to suffer for 2 or 3 more years, Mr. Chairman.

Mr. NELSEN. Mr. Chairman, I have no further requests for time. However, I do have a couple of minutes left and I am happy to yield the balance of our time to our distinguished chairman of the full committee.

Mr. STAGGERS. I thank the gentleman from Minnesota.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. I thank the distinguished chairman of the committee. I am in general support of the committee bill. However, at the proper time I will offer some amendments. But I think overall the bill is a good start in the right direction.

Mr. Chairman, I rise in support of H.R. 11021, the Noise Control Act of 1972. It is not as strong a bill as some of us would have liked—it is weaker, for example, than the package of noise abatement bills which I sponsored last March—but it is a long step in the right direction.

Noise pollution is not visible. We cannot taste it or breathe it. But we can feel it—psychologically, physically, and financially. According to the World Health Organization, accidents, absenteeism, inefficiency, compensation claims and industrial clatter resulting from noise pollution cost about $4 billion a year in the United States. Even that stark statistic does not begin to convey the disruptive impact of noise pollution which is all too evident to those of our fellow citizens who reside near our major airports. To the people who live around O'Hare Airport outside of Chicago, this bill offers a belated glimmer of hope for some relief from the noise pollution which so profoundly affects their lives.

In 1970, Congress directed the Environmental Protection Agency—EPA—to conduct a full study of the effects of noise on the public health and welfare, and to report to the President and to Congress. The Clean Air Act Amendments of 1970 also called for the formulation within EPA of an Office of Noise Abatement and Control to conduct the research for the study. Their report was released in January of this year. It did an excellent job of describing the effects of noise pollution on our society. It outlined the state of the art in antinoise technology, and provided examples of the efforts of Federal, State, and local governments to reduce the increasing levels of noise around the Nation. According to the report, these efforts up to now have been unsuccessful in controlling noise pollution, partly because of the lack of centralization and coordination. The report concluded that the Federal Government should take the initiative in antinoise activities, and it proposed legislation which was subsequently sponsored by the administration.

THE NOISE CONTROL ACT IS A SUBSTANTIAL IMPROVEMENT OVER THE BILL PROPOSED BY THE ADMINISTRATION

The administration's bill was not nearly strong enough in several key respects. It is to the credit of the House Interstate and Foreign Commerce Committee that the bill before us today is considerably stronger than the administration's version.

The Noise Control Act requires the Environmental Protection Agency to set noise standards for products that are major sources of noise pollution; the administration bill would have left standard setting to the discretion of the Agency.

Second, the bill before us now includes a broad classification of products which are judged to be primary sources of noise pollution. The administration version included only construction equipment, transportation equipment, and internal combustion engines, leaving a gigantic loophole since it excluded all forms of electrically driven machinery or electronic equipment such as electric motors and air conditioners. H.R. 11021 closes that loophole.

Third, the committee included in the bill a provision calling on the Federal Government to encourage the manufacture of more quiet machinery by establishing a Federal procurement policy. H.R. 11021 calls for EPA to certify low noise-emitting products, which then must be purchased in Federal contracts instead of their noncertified counterparts, if they are not more than 25 percent more expensive than the cheapest such product on the market. The Federal Government is the largest contractor for goods and services in the Nation, but the administration in its proposed bill completely ignored this obvious opportunity to promote the design of quieter products.

Fourth, the Noise Control Act gives individual citizens or citizen groups the right to bring suit for violations of the act. The right of citizens to bring suit is a significant weapon in the battle against all forms of pollution; it was included in the Clean Air Act Amendments of 1970, but it was conspicuously absent from the administration's proposed noise pollution bill.

H.R. 11021—A GOOD BILL THAT COULD BE BETTER

H.R. 11021 as it stands before the House now would empower the Federal Government to begin a coordinated antinoise program, but it is only a beginning. It is basically a sound bill, but it does not go as far as it might.

The most important deficiency in the Noise Control Act is the absence of any authority or funds for making grants to State and local governments to help them devise and implement noise pollution control programs, including demonstration projects. As the administration said repeatedly in testimony last year before the House Subcommittee on Public Health and the Environment, noise pollution must be attacked at the local level. State and local governments have attempted to deal with noise through antinoise ordinances and zoning laws, but their efforts have been unsuccessful in reducing noise levels in our urban communities. Local governments simply do not have enough trained personnel to undertake proper monitoring and enforcement.

H.R. 11021 will assist State and local governments in working out model State and local antinoise laws, but it will do little to help relieve the lack of resources which impedes enforcement of State and local laws. The report of the EPA's Office of Noise Abatement and Control, released in January, emphasized that—

> One of the major problems in the state and local levels of government is that of enforcement. In general, noise statutes, no matter how well written, are rendered ineffective because most state and local programs are insufficiently funded and staffed . . . Unfortunately, enforcement strains the already overburdened budgets of many of the nation's cities.

I hope that ultimately the bill will include provisions for a comprehensive system of grants to States, counties, municipalities, and regional government bodies to develop and to implement noise abatement programs and projects.

A second important weakness in the bill reported by the committee is its ambiguity regarding the authority of the States to enact stricter noise pollution control requirements than those adopted by the EPA. We should apply the same principle here as we have in the field of air pollution, and leave the States free to impose more stringent standards than the minimum Federal requirements.

Third, the bill fails to require that all machinery carry a label stating its operating noise level. This would be an extremely useful tool to consumers in deciding which products to buy, and it would encourage manufacturers to design the most quiet products possible. The Noise Control Act presently before us requires noise labels only on those products which EPA judges to be potentially injurious to the public, or those which are marketed as noise reducers.

Finally, H.R. 11021 omits any reference to the EPA's Office of Noise Abatement and Control. This office has been doing a creditable job in the field of noise pollution research and control since its inception in 1970. It should be given the primary responsibility for coordination and enforcement of the Federal Government's antinoise programs, to provide both Congress and the public with a focal point for judging the success or failure of those programs.

Mr. Chairman, all of the improvements I have suggested can be found in the package of noise pollution control bills which I sponsored last March—H.R. 6985, H.R. 6987, H.R. 6989, and H.R. 6991. I am hopeful that some or all of them can be included as amendments to this bill or in separate legislation following the enactment of the Noise Control Act. I plan to offer two such amendments at the appropriate time, both relating to excessive noise from airplanes and airports. Hopefully, the bill will be strengthened by these and other amendments, but in any event, the Interstate and Foreign Commerce Committee is to be commended for taking the first step toward reducing the level of noise pollution.

CONGRESS MUST FOLLOW THROUGH WITH EFFECTIVE OVERSIGHT OF AGENCIES

The next crucial step will come when the appropriate administrative agencies—EPA and the Federal Aviation Administration—FAA—establish the specific standards and requirements called for in the act. By their actions, these agencies can make this a tough, effective bill or a farce. If the past is any guide, we are not likely to bring much relief to residents in the vicinity of our airports by turning over to the FAA the power to set noise standards for airplanes.

Congress has a continuing oversight responsibility to see that the agencies implement the policy as well as the provisions of the Noise Control Act. We will watch with considerable interest the proposed regulations submitted by the EPA and the FAA in implementing the act. If they do their job and we continue to do ours, the citizens of the United States may see the promise of noise pollution abatement became a reality.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Chairman, for far too long the problem of noise has been the stepchild of the environmental movement. It is an unfortunate fact that, although we have become painfully aware of the more visible signs of our rapidly deteriorating environment, the very serious hazard of excessive and injurious noise has often been overlooked.

Therefore, I want to commend the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) for his concern and his leadership in the effort to mount a major Federal assault against noise and its dangers.

The processes of pollution is one of the great ironies of our society. Many of our ancestors came to this country because of her great natural wealth and beauty. America was the land of plenty. And it became more so as we, as our fathers before us, turned this Nation into the most technologically advanced society in the world.

But we are now confronted with the prospect that our very progress may have led us—not to the American dream—but to the American nightmare.

Advancing technology has brought smog to our cities; blackened and dying waters to our lakes and rivers. And it has brought its own fanfare—an ever increasing din that disturbs our sleep, interrupts our conversation, creates anxiety and annoyance, and adversely affects our physical and mental health.

The hazards of this obnoxious and intrusive noise cannot be overstated. Excessive exposure to noise can result in temporary and even permanent loss of hearing. Research has shown that high levels of noise can have adverse respiratory, glandular, cardiovascular, and neurological effects. Noise can be a cause of accidents by masking auditory warnings and by increasing annoyance and fatigue and decreasing alertness. It can even influence property values.

Too often the hazards of noise are thought of only in terms of permanent ear damage. But any standard relating to noise control must take into account the full range of ways in which excess noise can adversely affect an individual's well-being. It is well to note that the World Health Organization defines health not merely as the absence of infirmity and disease, but as a state of complete physical, mental, and social well-being.

Unfortunately, the problem of noise control has not been taken seriously enough. Perhaps, as Robert Alex Baron, the author of the "Tyranny of Noise," has suggested, we might have become more alarmed if noise had a name like "acoustic radiation."

But whatever the reason for our past tolerance of an increasingly intolerable condition, one thing is clear—we cannot allow this problem to continue unabated.

Noise and the damage it produces have been growing at an alarming rate. Ambient noise levels in midtown Manhattan already are in excess of 80 decibels. Urban noise has doubled since 1955 and is expected to double again by 1980. And evidence presented at a meeting last June of the International Standardization Organization in Geneva, Switzerland, indicated that if this increase continues, every urban dweller will be deaf by the end of this century.

Clearly, the time to act is now.

Noise and its hazards do not have to be the price of progress. Just as for any other form of pollution, the control of noise is not a matter of what we are able to do but of what we are willing to do.

The same technology which has led to the saturation of our communities which abusive noise, can be put to use to promote a quiet and tranquil environment. Technology is at hand for noise control. What must be done is to apply it to everyday use on our streets, in our factories, on our airways, in our offices, and in our homes.

The right to a quiet, peaceful environment free from the intrusion of unwanted and harmful noise is as basic as the right to clean air and water and pure food. And Government at all levels has a responsibility to insure that this right is safeguarded.

In the 91st Congress I introduced legislation to begin a vigorous, comprehensive Federal program for the control, abatement, and prevention of noise. That legislation—the Noise Control Act of 1970—was cosponsored by 20 Members of the House. It provided for the establishment of an Office of Noise Control, a Noise Advisory Council, and an extensive program of grants to State and local governments for noise research and control efforts.

This legislation was in part embodied in the Clean Air Act Amendments of 1970 (Public Law 91-604) which mandated the establishment of an Office of Noise Abatement and Control within the Environmental Protection Agency.

On February 8, 1971, I conducted an ad hoc congressional hearing on the problem of noise pollution in New York City. The proposals brought forward at that hearing, together with my past involvement in the area of noise control, and consultations with various experts, led to the development of the comprehensive legislative package for the control, abatement, and prevention of noise which I introduced on behalf of myself and more than 35 Members of the House on March 30, 1971.

This package—The Noise Abatement and Control Act of 1971 (H.R. 6986 and H.R. 6987); the Noise Disclosure Act (H.R. 6988 and H.R. 6989); the Occupational Noise Control Act of 1971 (H.R. 6990 and H.R. 6991); and the Office of Noise Abatement and Control appropriations bill (H.R. 5043, H.R. 6984 and H.R. 6985)—provided a tough, realistic, effective means to combat noise and its hazards.

I am deeply gratified that a significant number of the provisions of this legislation have been incorporated by the committee into the bill before us today (H.R. 11021).

Specifically, my legislation (H.R. 6986) directs the Office of Noise Abatement and Control to coordinate the efforts of the Federal Government that relate to noise control, abatement, and prevention. To this end all instrumentalities, agencies, and Departments of the Federal Government are directed to furnish the Office with such information as it may require. Further, each such

Federal entity is directed to carry out the programs within its control in accordance with the purposes of the act—the creation of a quieter environment. In any case where an agency of the Federal Government is carrying out or sponsoring an activity which is detrimental to the public health and welfare, such agency must consult with the Office to determine possible means of abating the offending noise. And the Office is to compile and publish a regular report as to the efforts and activities of the Federal Government and its instrumentalities, agencies, and departments in regard to noise.

The committee-reported bill fully incorporates these provisions, although it vests authority in the Administrator of the Environmental Protection Agency rather than specifying the Office of Noise Abatement and Control.

My Noise Abatement and Control Act directs the setting of noise emissions standards for any machine, or class of machinery which contributes to, or may contribute to, noise which endangers, or contributes to endangering the public health and welfare.

The committee bill has significantly strengthened the provisions relating to standards suggested in the administration-sponsored legislation (H.R. 5275) and has made them much more akin to those in my legislation. Under the committee bill, the Administrator is directed to set noise emission standards on new products which he has identified as major sources of noise for which noise emission standards are feasible and which fall in one of the following categories: construction equipment, transportation equipment, any motor or engine, and electrical or electronic equipment.

As we are all too well aware, without adequate enforcement even the best of laws can be of little more use than scraps of paper. One of the strong concepts enacted into law in the landmark Clean Air Act Amendments of 1970 was recourse for beleaguered private citizens or groups which failed to obtain relief by means of a complaint to the appropriate Federal agency. And I am pleased that the committee has included my citizen suit provision which allows any person to commerce civil action against an alleged violator of the act or against the Administrator, where there is an alleged failure of the Administrator to perform a nondiscretionary act or duty. Such actions cannot be commenced prior to 60 days after notice is given—more than adequate time for the Administrator to initiate action on behalf of the Government.

The largest contractor in this country—for services, for goods—is the Federal Government. My Noise Amendment and Control Act provides that this tremendous Government purchasing power be used, just at it is used in the Clean Air Act Amendments of 1970, by providing that each Federal agency which enters into contracts or extends Federal assistance by way of grant, loans, or contracts, is to effectuate the purposes of this bill—a quieter environment. Such a procurement policy would greatly lower the level of noise in our communities and serve as incentive to manufacturers to produce more quiet products.

Significantly, the commitee bill has recognized the need for this approach, and has included a section mandating the use of low-noise emission products by Federal agencies.

Both my legislation and the committee bill authorize technical assistance to State and local governments to facilitate their development and enforcement of noise control programs. And both our bills provide for the publication and dissemination to the public of information relating to the control, abatement and prevention of noise.

The committee in its deliberations specifically rejected the Federal preemption provision contained in the administration's draft bill. That provision would actually prevent States and local governments from setting any noise emission standard different in any way from that prescribed by the Administrator—even if the State standard would be more stringent.

It is essential that States and local governments be afforded the opportunity to protect their citizens from particular noise conditions. Standards set for national application must obviously and understandably be broad. They cannot be expected adequately to guard the health and welfare of all the people in the countless specific situations that occur in communities throughout the Nation. It should clearly be the prerogative, in fact, the responsibility, of the Federal Government to establish basic standards and to insist upon compliance throughout the Nation. However, State and local governments should be free to decide if more stringent standards should be applied within their jurisdiction.

Further, the establishment of total Federal preemption would have dismembered many of the significant noise control efforts that have already been undertaken by various States and localities. It has been argued that these levels of local government would still be free to use other means to combat noise pollution, such as zoning and time use requirements. However, these methods have proven insufficient in the past to come to grips with the problem of excessive noise. The only truely effective way to limit excessive and injurious noise is to limit it at its source—the noise generating product.

Therefore, my Noise Abatement and Control Act of 1971 provides that States may set more stringent, although not less strict, noise emission standards than those proposed by the Administrator.

Although the administration proposal was not adopted, there remained considerable uncertainty as to the exact degree of Federal preemption involved in the committee bill, which is now before us. Therefore, Congressman ECKHARDT and I intended to offer an amendment at the appropriate time which would have allowed States and local governments to establish noise emission decibel standards more stringent, although not less strict, than those set by the Federal Government. However, in light of the colloquy between Mr. ECKHARDT and the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) I feel that this amendment is no longer necessary. Their remarks make clear that the preemption provision in section 6(d)(1) of the committee bill applies only to State regulation of "new products."

"New product" is defined in section 3 as a product title to which has not passed to the first person who purchases the product for purposes other than resale. Thus, once a product for which Federal standards have been set is in the hands of the user, States and localities are not precluded by the committee bill from imposing their own noise emission decibel standards.

The legislative history now makes it clear that State and local governments have the right to regulate the licensing, use, operation and movement of noise sources by all means—including decibel limits once the product is in the hands of the consumer.

Although, as I have pointed out, the bill before us has many commendable features, there do remain several areas in which the legislation could and should be strengthened.

First, the committee bill does not include a program of grants to assist local governments in their noise abatement efforts. I believe that this oversight is particularly puzzling in light of the recognized fact that States and local governments have a large responsibility in the control, abatement, and prevention of noise. Yet there is no way of avoiding the fact that local governments are extremely hard-pressed for funds; and this pressure can only be relieved by the Federal Government.

Therefore, I intend to offer an amendment at the appropriate time to provide a comprehensive system of grants to State and local governments to develop, establish, and carry out noise abatement programs and projects. I believe that such a provision is essential to the mounting of a comprehensive noise control effort at all levels of government.

The Commitee bill fails to direct that the Office of Noise Abatement and Control be utilized to the fullest extent in carrying out the noise responsibilities under this act. In light of the urgent need for a specific focal point for the Federal Government's noise abatement control, and prevention efforts, I intend to offer an amendment directing that this Office be fully utilized in the assault against noise pollution. The need for such specific language is best documented by reading the administration-sponsored bill (H.R. 5275) which specifically deleted the Office. Although the committee did not adopt the administration's language, it did omit any mention of this already established vehicle for noise control. Now that the Office has completed the report mandated by the Clean Air Act amendment, I fear that in the absence of legislative language to the contrary, the Office will be discontinued—a severe blow to the fight against noise.

One of the prime reasons that the level of noise has increased so greatly over the past few decades—having doubled since 1955—is that the consumer has been unable to obtain reliable information necessary to take noise as a

factor when considering the purchase of a product.

Thus, I introduced the Noise Disclosure Act—H.R. 6988 and H.R. 6989—which requires that all new mechanical and electrical equipment transported in, sold in, or introduced into interstate commerce must have affixed to it a label or plate disclosing its operational noise level. The only items that could be exempted from this provision are those that have an operational noise level "so low as to be negligible" and as to which "information with respect to such noise level will not be of value to the consumer."

This bill would allow the consumer to know the noise-generating potential of any mechanical item he is contemplating buying, thereby affording him the opportunity to take that product's noise level into account as a factor in his purchase decision. Thus, he could choose not only the quieter of two automobiles but the quieter of two electric razors.

It is esssential that—if we are to lower the ambient noise in our communities—quiet must be a factor in each and every purchase.

Further, such legislation would serve as incentive for manufacturers to produce products with quiet in mind.

Unfortunately, the committee reported bill limits the labeling of products to those "which emits noise capable of adversely affecting the public health or welfare; or which is sold wholly or in part on the basis of its effectiveness in reducing noise." I do not believe that there is any need to be so restrictive. The consumer has a right to know the noise emissions of every product he buys. I hope that the Senate will take a strong look at this provision and make it more inclusive when this legislation is before that body.

I also believe that it is imperative that the Environmental Protection Agency be the agency responsible for the setting of aircraft noise standards. The committee bill, however, merely gives the Administrator of EPA the authority to consult with the Administrator of the Federal Aviation Administration, while leaving the authority for setting standards within FAA. Unfortunately history has demonstrated the reluctance of the FAA to undertake a meaningful program of aircraft noise abatement. In fact, even most of the research being conducted into jet noise suppression is being conducted by NASA, not FAA. In light of this and the need for a single core for our Government's antinoise efforts, the power to regulate aircraft noise should be vested in the EPA rather than FAA as it is now. My Noise Abatement and Control Act would have mandated such an action.

I also regret that the committee bill excludes exports from those standards set by the Administrator. Although I recognize that the rationale for this was not to hamper American industry in competing for markets abroad, I believe that noise is a worldwide problem; and I hope that the Senate will delete this section.

And finally I would have hoped that the committee bill would have adopted my provision to allow the Administrator to initiate court actions for violations of the act rather than requesting the Justice Department to take action. Sadly, the record of the Department of Justice in environmental matters is less than commendable. Again, I would urge the Senate to take corrective action on this measure.

The existence of noise pollution is not new. Americans have been studying noise for nearly 100 years; Europeans even longer. But despite this consciousness of the existence of noise and its hazards, very little has been done to control it.

The legislation before us today—even with its shortcomings—opens the way for a concerted, comprehensive Federal program to combat noise and its dangers and to insure the right of all citizens to a peaceful and quiet environment.

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

Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 11021, the Noise Control Act of 1972. This legislation, championed by the very able chairmen of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS) and that Committee's Subcommittee on Public Health and Environment (Mr. ROGERS), is a long overdue first step toward the control of a particularly harmful and often overlooked form of environmental pollution—the pollution produced by noise.

The lives and livelihoods of millions of people are affected by dangerously high levels of noise. Forty-four million Americans "have the utility of their dwellings adversely affected by noise from traffic and aircraft," in the words of the committee report; 21 million people are similarly affected by the noise from construction sites. The committee estimates that at least 80 million people in all—a staggering 40 percent of the Nation's total population—are affected "to a measurable degree of impact" by noise pollution.

What does this mean? It means a higher incidence of deafness and partial hearing loss. It means loss of sleep, with resulting physiological and psychological side effects. It means damage to buildings and equipment. Most of all, it means the continuing deterioration in the quality of life, and of urban life in particular—more inconvenience, more distraction, and more physical pain.

Perhaps we should separate the two component parts of noise pollution. There is, first of all, "community noise"—the roar of a diesel truck, the shriek of a jet plane overhead, the blast from a stereo record player. Each and every one of us can think back on instances when a loud noise broke our concentration or limited our ability to function, when noise did not threaten our health so much as it annoyed or inconvenienced us. According to the Department of Health, Education, and Welfare, the so-called "annoyance trend" of noise pollution is rapidly increasing, from 23 percent of the population who complained about the noise of city living in 1948, to 50 percent in 1961, to almost 100 percent today.

There is also "industrial noise"—the often overpowering noise conditions under which many of the Nation's plant and factory workers operate. Leonard Woodcock drew this memorable picture of working in a forge-drop plant:

> It is impossible to describe to anyone who has not seen such an operation the stress of noise and heat inflicted on the men whose bodies shake and sweat and bounce with the floor as the hammers descend into the hot metal.

Noise pollution, then, has two effects: It "annoys" people off-the-job, and poses a serious health and life threat to those on-the-job in certain industries. The problem is compounded by two curious properties of noise which make it unique among pollutants. First, its effects tend to be delayed. Only after prolonged exposure to high levels of noise are the physiological effects of exposure first manifested, and in some cases it takes years, even decades before the effects are felt. Second, man has shown a remarkable tendency to adapt to high levels of noise, to shrug off intolerable noise pollution as the necessary cost of performing certain types of labor. We are left with Leonard Woodcock's chilling conclusion that many men "accept the hazard of hearing impairment and stress of a noise-saturated work place as a condition of employment, out of their concern for job security."

What is our responsibility as legislators and lawmakers? Noise abatement programs in the past have been farcical. In one industrial plant, for example, earplugs were randomly distributed from a large box to all workers, despite the fact earplugs may be useless if not properly fitted by a physician. The Federal Government has a haphazard assortment of noise control programs with minimal coordination between them. It is only recently, in fact, that noise has even been considered a form of pollution and given the attention it deserves.

We must impose some form of coordination on the widely dispersed Federal programs on noise control. We must make provisions for careful, well-conducted research on all phases of noise pollution. And we must find sanctions which we can use to terminate as rapidly as possible the sources of noise pollution.

The legislation we consider today, H.R. 11021, addresses itself admirably to these three responsibilities of ours. First, section 4 of the bill authorizes the Administrator of the Environmental Protection Agency to coordinate the efforts of all Federal agencies in the area of noise research and control. Second, section 14 provides for research and public information programs, for which the sum of $750,000 is allocated.

Third and most important, there are strong noise emission standards outlined in this bill, although, as I shall indicate shortly, they are not as strong as I would like them to be. Section 6 gives the EPA Administrator broad power to set and enforce noise emission standards. Section 8 requires the Administrator to issue regulations for the labeling of any product which emits a potentially damaging amount of noise. Other sections provide for citizens' suits, compliance regulations, and strict enforcement provisions.

I am extremely reluctant, however, to endorse section 7 of the bill, providing for privileged status for the Federal Aviation Administration. Under the terms of this section, the FAA must consult with the EPA and the Secretary of Transportation, then draw up standards for aircraft noise and sonic booms which are incorporated in the regulations under this bill. In the original version of this legislation the EPA had veto power over the FAA-drafted standards, but in this bill it has been stripped of that power.

In view of the FAA's history of being dominated by the very industry it is supposed to regulate, I consider this change highly unfortunate. According to an article in the Washington Star on October 12, 1971, the FAA has already decided to let representatives of the air transport industry write their own regulations. Again I say, this is most unfortunate. I would prefer to see the EPA retain its veto power, and I fail to see why the airline industry merits special consideration in the drafting of anti-noise regulations.

Nevertheless, my reservations on this section do not override my enthusiasm for the bill as a whole. I emphasize, Mr. Chairman, that the provisions included in H.R. 11021 are long overdue. The bill is comprehensive, manageable, and well-designed. I urge its passage.

Mr. BADILLO. Mr. Chairman, as it was with many other aspects of our environmental crisis, the noise problem was allowed to reach dangerous proportions before adequate study and action were contemplated. As a result, we are today in the position of considering legislation that should have been before this House at least a decade earlier. We are still playing catchup with the environment, which means with our very survival.

If we have learned one thing about noise pollution in recent years, it is that this problem represents more than a mere nuisance. It is now recognized as a serious physical, mental, and economic hazard.

Early last year, shortly after I first took office. I cosponsored with 13 colleagues in the New York delegation, an ad hoc hearing on noise pollution in New York City. The record of that hearing led to the development of a comprehensive package of noise control legislation which I cosponsored with its author, Congressman WILLIAM F. RYAN, and a number of other colleagues.

The first bill in the package appropriated money to fully fund the Office of Noise Abatement and Control established within the Environmental Protection Agency by the Congress in 1970. The need for this bill was established by the failure of the Nixon administration to request any funds at all for this office in fiscal 1972.

The second bill broadened the functions of the Office of Noise Abatement and Control to take its functions out of the area of mere research and into the area of regulation and enforcement. The bill directs the head of that office to prescribe standards on all noise-generating machinery that may endanger the public health and welfare, and it also established a system of grants and contracts to enable local governments to combat noise with Federal assistance.

The third bill—the Noise Disclosure Act—requires that all new mechanical and electrical equipment transported or sold in interstate commerce must have affixed a plate or label disclosing its operational noise level. The bill also gives the Administrator of the EPA a directive to prescribed regulations establishing standard procedures for measuring noise levels on such equipment.

In contrast to these bills is the administration's noise control proposal, introduced in the Senate last year as S. 1016. This bill, in my judgment, is by no means adequate to really tackle the noise problem and unfortunately, the bill reported by the Committee on Interstate and Foreign Commerce continues these inadequacies.

Among the major defects are these:

First. The bill fails to provide assistance to States and localities in their efforts to control, abate, and prevent noise.

Second. The bill preempts State and local authority to prescribe noise emission standards for new products for which Federal standards apply. Thus, if a city such as New York, or a State such as California, should wish to set standards stronger than those set by the Federal Government, it could not do so.

Third. The bill fails to give the EPA authority to set and enforce noise limits on jet aircraft, continuing the Federal Aviation Administration's purview in this area. History has demonstrated the folly of this. The FAA continues to be dominated by the airline industry which has consistently opposed any retrofit requirement for the existing jet fleet. As a result, the din of jet noise over city and suburb has become unbearable. Although Congress gave the FAA authority to set jet noise limits on current aircraft nearly 4 years ago, the FAA has done nothing but stall. Clearly, it is time that the enforcement role in this area should be given to the EPA, with the FAA retaining only an advisory role.

I understand that amendments to cure these serious defects will be offered to the committee bill. It is essential that they pass, and they will have my full and enthusiastic support. The noise problem cannot be attacked by tokenism and rhetoric.

Mr. DONOHUE. Mr. Chairman, I urge support of H.R. 11021, the Noise Control Act of 1972, which is designed to control noise emissions detrimental to the human environment.

Over the past generations as this country grew and prospered and gave to its citizens the best standard of living known to man, we unwittingly took from our natural environment and never gave back to her. In our continuing struggle to repair the damage we have done, we have taken great legislative strides. We have sought and projected ways to clean up our air and water, dispose of solid wastes and make our earth good again. Now we have the opportunity to address ourselves to another problem that our technological achievements have created—noise. Let us legislatively act, before we do irreparable harm, to protect the human ear and nervous system.

As we have heard so often a journey of a thousand miles begins with one small step. I believe that this bill is a worthy first step toward protecting our citizens from an unhealthy quantity of decibels. H.R. 11021, as our initiative action, requires the Environmental Protection Agency to develop and publish noise criteria, identifying the effects of the various quantities and qualities of noise on the health and welfare of Americans. Additionally, EPA must identify products which are major sources of noise and provide information on techniques to control their noise emissions. Within 18 months of enactment, EPA must establish technologically and economically feasible noise emission standards for construction equipment, transportation equipment, motors or engines and electrical or electronic equipment. Aircraft noise and sonic boom standards will be prescribed by the Federal Aviation Administration in consultation with the Secretary of Transportation and EPA. The bill further provides for product labeling and other effective means designed to insure that the protective requirements that are authorized will be strictly enforced and effectively applied in the public interest.

The very fervent desire of all of our people, in this tumultuous time, Mr. Chairman, is to initiate "a generation of peace." This afternoon, I most earnestly hope this House will overwhelmingly act to wholesomely expand the expression of our common objective so that it will read, "a generation of peace and quiet."

Mr. BROOMFIELD. Mr. Chairman, only 10 years ago it would have been inconceivable to suggest that the level of noise in our environment might pose a threat to our health and safety.

Regretfully, what would have been termed folly then, is now all too sobering reality. The growing volume and intensity of noise generated in the home, office, and our cities constitutes just another menacing phenomenon of our modern age.

No less than water or air pollution, noise pollution is a problem which we cannot delay in meeting head-on now and one which we must solve soon. The solution to this problem would be much easier if its cause were limited to but a few major sources. However, this is not the case; this pollution emanates from an almost infinite variety of sources.

Since noise pollution is such a comprehensive and all pervasive threat to our people and because it is a threat to the very quality of our lives, we must attack it on a national scale. This measure does just that and, if for no other reason than that it represents a first step toward that goal, it is worthy of our approval.

Mr. Chairman, the scientific facts which motivated this legislation are worthy of review because they illustrate just how real, how devastating the consequences of excessive noise actually are.

We now know that prolonged and unusually high levels of noise cause emotional stress which can have long-term implications for many people. As for

physical effects, extreme noise can result in partial or complete loss of hearing.

A study made at the University of Tennessee has proven that an alarming number of incoming freshmen already have reduced hearing faculties. These young people between the age of 18 and 21 had the hearing ability of people twice their age. Just how this defect will accelerate as they grow older no one can accurately predict.

It is true that the high rate of hearing defects among young people is due in part to the fact that they often subject themselves for long periods of time to excessively loud music. However, the effect it has had upon them should serve as a graphic example of the potentially disastrous consequences of prolonged noise pollution.

Mr. Chairman, by giving the Administrator of the Environmental Protection Agency the authority to prescribe acceptable noise limits we can roll back the tide of noise which threatens to inundate us all. Today, there are more than 80 million Americans, 40 percent of the population, who are affected by noise pollution. Furthermore, of that number, 40 million are risking serious and permanent hearing impediments.

Mr. Chairman, pollution of any kind, whether it be of noise, water or air, is distinguished by the fact that no individual by his own efforts can escape it. This enemy will fall only to a national attack; a concerted and united plan by this Government to control the level of noise in our society before it truly does become deafening. I, therefore, respectfully urge the passage of the Noise Control Act.

Mr. ANDERSON of Illinois. Mr. Chairman, I will be brief since there have been those who have been critical of the level of noise emission in this very Chamber and have urged standards toward dampening it.

We have all become more aware of what technology now does for us and to us. There was a time when the term technology had a simple positive ring. Recent years have made us recognize the unforseen effects from the technicfication of our society. Among the clear costs of new technologies is a new and often unpleasant clangor in our lives. On the grander scale there is the cracking of sonic booms, the hysterical wail in mill and factory, the sharp crepitation of bad exhaust, the furious shriek of subway cars, the raucous thump of the pneumatic hammer in the streets.

But noise pollution touches us all on much more mundane levels, causing an irritation or frustration that cancels a bit of quality out of our days. Who of us has not winced at the whine of power mowers at early morn, at the motor boat wracking a placid lake, at the motorized golf cart ruining a putt? And for those of us with kids the right age, there is the stereo's blast from upstairs of the latest work of the Led Zeppelin or Santana. Trivial examples perhaps, but did not this Nation establish a Constitution in part to insure domestic tranquillity?

The authority proffered the Environmental Protection Agency as consultant, standard setter and researcher of noise emissions under this bill is sensible. The funding levels are modest. The ability of States and localities to control and regulate the use or operation of products is left unimpaired.

This is one time, gentlemen, when I can say with emphasis, we have a sound bill.

Mr. RHODES. Mr. Chairman, for the information of the Members of the House of Representatives I would like to insert at this time the House Republican Policy Committee statement on H.R. 11021, the Noise Control Act of 1972.

The House Republican Policy Committee supports the passage of H.R. 11021, the Noise Control Act of 1972.

In February of 1971, President Nixon forwarded to the Congress recommendations to "provide a method for measurably reducing major noise sources, while preserving to State and local governments the authority to deal with their particular noise problems." In furtherance of the President's program, H.R. 11021, has been reported by the House Committee on Interstate and Foreign Commerce. The proposed legislation would expand and coordinate Federal efforts to control the emission of noise detrimental to the health and welfare of the American people.

The Environmental Protection Agency is given the primary responsibility for implementing the legislation. Its functions would include:

First. The development and dissemination of information on noise and its effects on health and welfare;

Second. The identification and determination of standards for major sources of noise, such as construction equipment, transportation equipment, and equipment powered by internal combustion engines;

Third. The establishment of labeling requirement for designated products or classes of products; and

Fourth. The coordination of Federal efforts relating to noise research and control.

Recognizing that centralized administration and enforcement of local noise limits would be unmanageable, local units of Government retain the power to determine and enforce noise abatement and control levels. Federal action is limited to identification of noise sources and promulgation of feasible noise standards for specific products.

H.R. 11021, the Noise Control Act of 1972, provides for that degree of noise abatement and control which is appropriate and adequate at this time. It represents a comprehensive and effective approach to the growing problem of noise detrimental to the human environment. The House Republican Policy Committee urges its passage.

Mr. SPRINGER. Mr. Chairman, noise is far more than a mere annoyance—it is a major health problem. This fact was recognized by Congress some years ago when the Walsh-Healey Act was passed which applied to noise levels in industrial establishments. Now it is well documented that noise can be detrimental to health in other settings and other contexts.

The sources of noise have been increasing rapidly from the use of new devices such as power mowers and snowmobiles and also from the greater use of devices already in the noise business such as automobiles. The exact parameters of this broader noise problem are rather difficult to define and therefore difficult to influence and control. Simple pronouncements of desired noise levels for varying environments would be most difficult to establish and more difficult to enforce.

The bill before us today does not try to simply legislate quiet. It cannot be done that way. The bill does try, however, to set up some fairly flexible approaches to help identify and then solve the noise problems as they emerge.

Having already created an organization directly concerned with the environment, it seems sensible to have that agency, the Environmental Protection Agency, charged with the responsibility for determining first the necessity for noise standards in the manufacture of various mechanical devices and then the setting of those standards. Initially the effort will apply to things which commonsense already indicates are noisy such as construction equipment, transportation equipment, engines, and electrical equipment. Once standards are set through the administrative procedures applicable, manufacturers of those products may rely upon them and by certifying compliance market those products freely.

Being able to put a potential noisemaker on the market does not mean that States and local governments are powerless to control the use to which that product may be put. On the contrary, it is expected that local units of Government, having the overall problem of noise with which to contend, will make rules for the use of various equipment. For example, gasoline power mowers could be banned or regulated as to times of use. Outboard motors can be restricted in times and places of use. Trucks can be banned from certain areas. This is the real heart of noise control. It is not expected that all products can be made noiseless and do the job for which they are intended. Perhaps they can be made less noisy. But the bigger problem is the accumulation of noise sources in any given area. That can only be controlled locally and it is so recognized by this bill.

In addition to noisy products there are and will be many which can influence noise control. Most obvious, of course, is insulation material. Things like this can be most helpful if the consumer is informed as to the exact results to be expected from the product. This is a matter of labeling and is provided for in the bill in much the same flexible way as standards for machinery. The more obvious products can be designated fairly rapidly, but many others may come and go which should be considered and included.

Noise control techniques will be explored by the Federal Government and the information obtained will be widely disseminated for the benefit of communities and individuals.

One rather sticky problem considered by the committee in regard to noise control had to do with aircraft noise. At present the responsibility rests with the Federal Aviation Administration. Basically it should remain there but the Environmental Protection Agency should have an input and a chance to make pertinent suggestions on any proposed standards for aircraft. This bill provides for that relationship between the agencies.

Since the Federal Government is a big user of noisy equipment it should lead

the way in eliminating unnecessary noise from such sources. Under this bill the Environmental Protection Agency will recommend products which are suitable but quieter for governmental purchase. It also provides for procurement of such products if they are not inordinately expensive.

To carry out the activities anticipated under this bill we have provided authorizations for the next 3 years in the amounts of $3 million, $6 million, and $12 million respectively.

Here we have a piece of legislation which recognizes a major problem but does not promise Utopia. There is much which we need to learn about noise and noise control before we can take any significant steps toward overall abatement. By setting up this machinery of Government now it will be possible to stay ahead of the game and head off the really big problems as they appear. In this instance Congress has a chance to lock a barn before the horse is miles away. I recommend the Noise Control Act to my colleagues for their approval.

Mr. TIERNAN. Mr. Chairman, as a member of the Interstate and Foreign Commerce Committee and as a sponsor of a Noise Control Act myself, I rise to express my support for H.R. 11021. While this bill is not as strong as I would like it to be, it is an important first step in the control of noise pollution.

For the first time we will have Federal coordination of noise control and research activities through the Environmental Protection Agency. Noise emission standards will be established for new products, and labels will be required for products which emit noise capable of adversely affecting the public health or welfare. H.R. 11021 also authorizes citizen suits against violators of noise control requirements established by this bill. Finally, the Administrator of EPA is authorized to provide technical assistance to States and local governments in training enforcement personnel and in preparing model State or local noise control legislation.

There are weaknesses in the bill which do concern me. One is the failure to give EPA more authority over the aircraft standards established by the Federal Aviation Administration. Second, if a State or local government wanted to establish noise emission standards for new products which would be stricter than the Federal standards, they would be prohibited from doing so. Third, the bill fails to provide a grant program to assist State and local governments to control and prevent noise.

I also believe that the Congress must act this year to lower the decibel level for occupational noise from 90 decibels, as is presently stated in the Walsh-Healey Act, to 85 decibels. A 90-decibel sound level is nearly half again as loud as an 85-decibel sound level. In addition, 85 decibels is the level at which hearing damage begins for an 8-hour exposure. Federal law should thus not be above this acceptable level.

As I stated earlier, the bill we consider today is an excellent beginning. Noise is a negative fringe benefit of the man-made environment of our industrial and high density urban society. To the extent to which this environment is becoming increasingly manmade, noise is not likely to go away, but only to become more pervasive. The way to keep noise at levels consonant with civilized life is thus through the regulation of technology.

Some scientists believe that if city noise continues to rise as it has been—approximately one decibel per year—there is a good chance that almost everyone will be stone deaf by the year 2000. A study by the University of Tennessee Noise Study Laboratory reports:

> Fearful speculation that the current population of young persons will encounter much more serious hearing problems in their middle years than the present group of 50 to 60 year olds.

This is why prompt action by this Congress is necessary and why Chairman ROGERS is to be congratulated for expediting consideration of H.R. 11021. I urge my colleagues to give this bill their support.

Mr. FRASER. Mr. Chairman, this is excellent legislation which I am happy to support, but it needs some modification to meet the incessant roar and rumble of jet aircraft.

The Federal Aviation Administration—FAA—has failed in the task assigned it by Congress 3 years ago—to quiet the noise of jet aircraft operating in and out of our Nation's airports. A major share of this responsibility should now be turned over to the Environmental Protection Agency, which has been created since we first asked the FAA to act. The facts are that the FAA has apparently felt its responsibility to promote aviation and license aircraft and insure safe flight has priority over its responsibility to the public in the approaches to airports. I support the Wydler amendments to bring the EPA into the aircraft noise picture.

In addition, amendments by the gentleman from New York (Mr. ROSENTHAL) deserve support. The first would set up a commission to study the question of curfews on nonmilitary aircraft during normal sleeping hours. Many large airports in other countries have turned to this idea. Heathrow Airport, London, England, will have a complete ban on takeoffs between 11:30 p.m. and 6 a.m. Frankfurt, Germany, is considering a ban on night takeoffs of jets. Jets are prohibited from Tokyo and Osaka airports between 11 p.m. and 6 a.m. with the exception of mailplanes. Let us adopt the amendment to give this proposal active study. It may be the only way to let people have a decent night's sleep.

The second amendment would prohibit civilian planes from making sonic booms in U.S. airspace. This action is needed now before the arrival of supersonic transports from the Soviet Union or Western Europe. The Noise Control Act of 1972 must prevent sonic booms.

Mr. HASTINGS. Mr. Chairman, in considering the Noise Control Act, today, I would like to clarify New York State's position on this legislation.

As a Representative from New York, I would like to submit a statement of intent clarifying section 6(d)(2). This would reserve the establishment of noise emission standards for the manufacture, transportation and sale of new products for the Federal Government. It should also clearly indicate the right of States to regulate the licensing, use, operation, and movement of noise sources by all means, including decibel limits more stringent than those of the Federal Government.

In summation, I am attaching a statement by Henry L. Diamond, Commissioner of the Department of Environmental Conservation for New York State, expressing his concern.

The statement follows:

STATEMENT BY HENRY L. DIAMOND

The control of noise is a major requirement in the United States and its many subdivisions.

There is no reason to give further discussion to why, where, or when this control must be established. The need for noise control is urgent at home, in the working place, and throughout the environment. All levels of government must act now to meet this need.

The remaining question is how to divide the task among the Federal, State and local governments to achieve the most favorable results.

We believe that the proper role of the Federal government is to assume a position of leadership in noise control by taking positive steps in research, education, the establishment of basic noise emission standards and financial assistance to states and communities.

In considering the Noise Control Act of 1972 (H.R. 11021), it is necessary to give special consideration to the question of noise emission standards as these constitute a major part of the Act. We welcome Federal standards for the manufacture of new products and their components. Uniform Federal standards are particularly necessary in the area of interstate transportation and the various vehicles employed for that purpose. Uniform standards for a wide variety of other consumer goods may also be in the best interests of both commerce and the individual citizen, the consumer. Clear informative product labeling of noise emissions will also be a boon to the consumer enabling him to make rational choices.

Noise, however, is largely a local problem, a fact that is recognized in this Noise Control Act. Federal noise standards must be permissive enough to fit the average needs of the entire nation. They cannot simultaneously provide adequate control for all situations and all places. It is essential that the States and their subdivisions retain the ability to establish more stringent regulations on the licensing, use, operation or movement of any product.

The wording of this Act appears more conducive to this necessary State and local regulation than earlier proposed legislation. It is also our understanding that it is the intent of this Act to protect the right of local regulation. This, too, is encouraging. There remains, however, considerable doubt as to the exact degree of Federal preemption involved.

Some measure of noise control can be exercised by zoning, land use planning and curfews, the measures mentioned in the report of the House Committee on Interstate and and Foreign Commerce. This report cites examples from the Chicago noise ordinance which prohibits the operation of certain classes of machines by time and location without reference to the quantity or quality of noise produced. We do not consider such regulations to be an adequate means of noise control. Noise is measured in decibels. Since noise is to be controlled it is essential that the State have the right to employ decibel limits and/or other criteria more stringent

than the Federal standards for the manufacture of new products in their regulations for control, licensing, operation, use or movement of these products. No question should be allowed to remain concerning this right; it should be clearly stated.

We therefore ask that the question of the States' rights as set out in Section 6(d)(2), page 11 of the bill be clarified either by amendment or by an explicit statement of intent.

Mr. STAGGERS. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, including the following table of contents, may be cited as the "Noise Control Act of 1972".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Federal programs.
Sec. 5. Identification of major noise sources; noise criteria and control technology.
Sec. 6. Noise emission standards for products distributed in commerce.
Sec. 7. Aircraft noise standards.
Sec. 8. Labeling.
Sec. 9. Imports.
Sec. 10. Prohibited acts.
Sec. 11. Enforcement.
Sec. 12. Citizen suits.
Sec. 13. Records, reports, and information.
Sec. 14. Research, technical assistance, and public information.
Sec. 15. Development of low-noise-emission products.
Sec. 16. Authorization of appropriations.

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other products in commerce; and

(3) that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to authorize the establishment of Federal noise emission standards for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "person" means an individual corporation, partnership, or association, and (except as provided in sections 11(d) and 12(a)) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

(3) The term "product" means any manufactured article or goods or component thereof; except that such term does not include—

(A) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act of 1958; or

(B)(i) any military weapons or equipment which are designed for combat use; (ii) any rockets or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration; or (iii) to the extent provided by regulations of the Administrator, any other machinery or equipment designed for use in experimental work done by or for the Federal Government.

(4) The term "ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(5) The term "new product" means (A) a product the equitable or legal title of which has never been transferred to an ultimate purchaser, or (B) a product which is imported or offered for importation into the United States and which is manufactured after the effective date of a regulation under section 6 or section 8 which would have been applicable to such product had it been manufactured in the United States.

(6) The term "manufacturer" means any person engaged in the manufacturing or assembling of new products, or the importing of new products for resale, or who acts for, and is controlled by, any such person in connection with the distribution of such products.

(7) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(8) The term "distribute in commerce" means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

(9) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(10) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

FEDERAL PROGRAMS

SEC. 4. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 2(b).

(b)(1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 611 of the Federal Aviation Act of 1958 (as amended by section 7 of this Act) shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

IDENTIFICATION OF MAJOR NOISE SOURCES; NOISE CRITERIA AND CONTROL TECHNOLOGY

SEC. 5. (a) The Administrator shall, after consultation with appropriate Federal agencies, develop and publish criteria with respect to noise. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and etxent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise.

(b) The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternative methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act.

(c) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

(d) Any report (or revision thereof) under subsection (b)(1) identifying major noise sources shall be published in the Federal Register. The publication or revision under this section of any criteria or information on control techniques shall be announced in the Federal Register, and copies shall be made available to the general public.

NOISE EMISSION STANDARDS FOR PRODUCTS DISTRIBUTED IN COMMERCE

SEC. 6. (a)(1) The Administrator shall publish proposed regulations, meeting the requirements of subsection (c), for each product—

(A) which is identified (or is part of a class identified) in any report published under section 5(b)(2) as a major source of noise,

(B) for which, in his judgment, noise emission standards are feasible, and

(C) which falls in one of the following categories:

(i) Construction equipment.

(ii) Transportation equipment (including recreational vehicles and related equipment).

(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

(iv) Electrical or electronic equipment.

(2)(A) Initial proposed regulations under paragraph (1) shall be published not later than eighteen months after the date of enactment of this Act, and shall apply to any product described in paragraph (1) which is identified (or is a part of a class identified as a major source of noise in any report published under section 5(b)(1) on or before the date of publication of such initial proposed regulations.

(B) In the case of any product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 5(b)(1) after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) for such product shall be proposed and published by the Administrator not later than eighteen months after such report is published.

(3) After proposed regulations respecting a product have been published under paragraph (2), the Administrator shall, unless in his judgment noise emission standards are not feasible for such product, prescribe regulations, meeting the requirements of subsection (c), for such product—

(A) not earlier than six months after publication of such proposed regulations, and

(B) not later than—

(i) twenty-four months after the date of enactment of this Act, in the case of a product subject to proposed regulations published under paragraph (2)(A), or

(ii) in the case of any other product, twenty-four months after the publication of the report under section 5(b)(1) identifying it (or a class of products of which it is a part) as a major source of noise.

(b) The Administrator may publish proposed regulations, meeting the requirements of subsection (c), for any product for which he is not required by subsection (a) to prescribe regulations but for which, in his judgment, noise emission standards are feasible and are requisite to protect the public health and welfare. Not earlier than six months after the date of publication of such proposed regulations respecting such product, he may prescribe regulations, meeting the requirements of subsection (c), for such product.

(c)(1) Any regulation prescribed under subsection (a) or (b) of this section (and any revision thereof) respecting a product shall include a noise emission standard which shall set limits on noise emissions from such product and shall be a standard which in the Administrator's judgment, based on criteria published under section 5, is requisite to protect the public health and welfare. In establishing such a standard for any product, the Administrator shall give appropriate consideration to technological feasibility and economic costs, and to standards under other laws designed to safeguard the health and welfare of persons, including any standards under the National Traffic and Motor Vehicle Safety Act of 1966 and the Clean Car Act. Any such noise emission standard shall be a performance standard. In addition, any regulation under subsection (a) or (b) (and any revision thereof) may contain testing procedures necessary to assure compliance with the emission standard in such regulation, and may contain provisions respecting instructions of the manufacturer for the maintenance, use, or repair of the product.

(2) After publication of any proposed regulations under this section, the Administrator shall allow interested persons an opportunity to participate in rulemaking in accordance with the first sentence of section 553(c) of title 5, United States Code.

(3) The Administrator may revise any regulation prescribed by him under this section by (A) publication of proposed revised regulations, and (B) the promulgation, not earlier than six months after the date of such publication, of regulations making the revision; except that a revision which makes only technical or clerical corrections in a regulation under this section may be promulgated earlier than six months after such date if the Administrator finds that such earlier promulgation is in the public interest.

(d)(1) Subject to paragraph (2), no State or political subdivision thereof may adopt or enforce—

(A) with respect to any new product for which a regulation has been prescribed by the Administrator under this section, any law or regulation which sets a limit on noise emissions from such new product and which is not identical to such regulation of the Administrator; or

(B) with respect to any component incorporated into such new product by the manufacturer of such product, any law or regulation setting a limit on noise emissions from such component when so incorporated.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to control, regulate, or restrict the use, operation, or movement of any product.

AIRCRAFT NOISE STANDARDS

SEC. 7. (a) Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

"CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 611. (a) For purposes of this section:

"(1) The term 'FAA' means Administrator of the Federal Aviation Administration.

"(2) The term 'EPA' means the Administrator of the Environmental Protection Agency.

"(b)(1) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that aviation safety requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

"(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

"(c)(1) If at any time EPA has reason to believe that—

"(A) a standard or regulation (or any proposed standard or regulation) under this section, or any exemption, granted under any provision of this Act, with respect to such a standard or regulation, or

"(B) the action of the FAA in issuing an original type certificate for an aircraft for which standards and regulations described in subsection (b)(2) have not been prescribed, does not protect the public from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA, and may request the FAA to review, and report to EPA on, the advisability of such action or of revising such standard, regulation, or exemption, as the case may be. Any such request may be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action or standard or regulation (or exemption therefrom); and shall specify whether (and where) such statement is available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

"(2) If, in the case of a matter described in paragraph (1)(A) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the revision (if any) proposed by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the existing (or proposed) standard or regulation of the FAA (or exemption therefrom) and (B) EPA's proposed revision.

"(3) If, in the case of an action of the FAA described in paragraph (1)(B) of this subsection with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA states that issuance of an original type certificate should not be preceded by issuance of a noise standard and regulation, the FAA shall, upon request of EPA, file a statement (of the type described in such section 102(2)(C)) with respect to the issuance of such certificate. The requirements of such section 102(2)(C) relating to consultation, obtaining comments, and the availability of statements made pursuant to such section shall apply to any statement filed under the preceding sentence.

"(d) In prescribing and amending standards and regulations under this section, the FAA shall—

"(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

"(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

"(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

"(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

"(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public interest do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation."

(b) All—

(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958, and

(2) exemptions granted under any provision of the Federal Aviation Act of 1958, with respect to such standards, rules, and regulations.

which are in effect on the date of the enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law.

LABELING

SEC. 8. (a) The Administrator shall by regulation designate any product (or class thereof)—

(1) which emits noise capable of adversely affecting the public health or welfare; or

(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise.

(b) For each product (or class thereof) designated under subsection (a) the Administrator shall by regulation require that notice be given to the prospective user of the level of the noise the product emits, or of its effectiveness in reducing noise, as the case may be. Such regulations shall specify (1) whether such notice shall be affixed to the product or to the outside of its container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Section 6(c)(2) shall apply to the prescribing of any regulation under this section.

(c) This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

IMPORTS

SEC. 9. The Secretary of the Treasury shall, in consultation with the Administrator, issue regulations to carry out the provisions of this Act with respect to new products imported or offered for importation.

PROHIBITED ACTS

SEC. 10. (a) Except as otherwise provided in subsection (b), the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 6 which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 6, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 8(b) (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 8(b), prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 9 which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 13(a) or regulations prescribed thereunder.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Administrator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

ENFORCEMENT

SEC. 11. (a)(1)(A) Except as provided in subparagraph (B), any person who violates section 10(a) of this Act shall be subject to a civil penalty of not more than $25,000 for each violation. Such penalty may be assessed by the Administrator and collected in a civil action brought by the United States in a United States district court, or assessed by a State which is a party to an agreement under subsection (c) and collected in a civil action brought by such State in a court of such State as provided in such subsection.

(B) A person who does any act in violation of paragraph (1), (2), or (3) of section 10(a), and who establishes that he did not have reason to know in the exercise of due care that such act was in violation of such paragraph, shall not be subject to a civil penalty under subparagraph (A).

(2) In any proceeding by the Administrator (or a State) to assess a civil penalty under this subsection, no penalty shall be assessed until the person charged shall have been given notice and on opportunity to present his views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Administrator (or such State) shall consider the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification by the Administrator (or such State) of a violation.

(3) In case of any civil penalty assessed against any person by the Administrator under this subsection, if the Administrator's determination that such person is liable for such penalty is made on the record after notice and opportunity for hearing, then in any civil action to collect such penalty (and any other civil action reviewing such determination of the Administrator) any findings of fact on which such determination is based shall be conclusive if supported by substantial evidence on the record considered as a whole.

(4) For the purpose of this subsection, each day of violation of any paragraph of section 10(a) shall constitute a separate violation of that paragraph.

(b) The United States may bring a civil action in the district courts of the United States to restrain any violations of section 10(a) of this Act.

(c) When authorized by State law—

(1) the Administrator may, by agreement with any State, with or without reimbursement, authorize law enforcement officers or other officers or employees of such State to (a)(1)(A), and to bring civil actions in the appropriate State courts to collect such civil penalties or to restrain any person from violating section 10(a); and

(2) the courts of such State may entertain any such civil action.

In any action under this subsection to collect a civil penalty, the penalty shall be payable one-half to the State and one-half to the United States Treasury. Nothing in this subsection shall affect the authority of a State to commence a civil action under section 12.

(d) The term "person", as used in this section, does not include a department, agency, or instrumentality of the United States.

CITIZEN SUITS

SEC. 12. (a) Except as provided in subsection (b), any person (other than the United States) may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e)), or

(2) against—

(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator, or

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise control requirement under such section 611) and (ii) to any alleged violator of such requirement, or

(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right, or (2) under subsection (a)(2) prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

(c) In an action under this section, the Administrator of the Environmental Protection Agency, if not a party, may intervene as a matter of right. In an action under this section respecting a noise control requirement under section 611 of the Federal Aviation Act of 1958, the Administrator of the Federal Aviation Administration, if not a party, may also intervene as a matter of right.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

(e) For purposes of this section, the term "noise control requirement" means paragraph (1), (2), (3), (4), or (5) of section 10(a), or a standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958.

RECORDS, REPORTS, AND INFORMATION

SEC. 13. (a) Each manufacturer of a product to which regulations under section 6 or section 8 apply shall—

(1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act,

(2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and

(3) to the extent required by regulations of the Administrator, make products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator.

(b)(1) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevant to the matter in controversy in any proceeding under this Act.

(2) Nothing in this subsection shall authorize the withholding of information by the Administrator, or by any officers or employees under his control, from the duly authorized committees of the Congress.

RESEARCH, TECHNICAL ASSISTANCE, AND PUBLIC INFORMATION

SEC. 14. In furtherance of his responsibilities under this Act and to complement, as necessary, the noise-research programs of other Federal agencies, the Administrator is authorized to:

(1) Conduct research, and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

(A) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(C) determination of the most effective and practicable means of controlling noise emission.

(2) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to—

(A) advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(B) preparation of model State or local legislation for noise control.

(3) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

SEC. 15. (a) For the purpose of this section:

(1) The term "Committee" means the Low-Noise-Emission Product Advisory Committee.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "low-noise-emission product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under regulations applicable under section 6 at the time of procurement to that type of product.

(4) The term "retail price" means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(b)(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

(2) The Administrator shall certify any product—

(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

(B) which is a low-noise-emission product as determined by the Administrator; and

(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(4) Certification under this section shall be effective for a period of one year from the date of issuance.

(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

(B) The Administrator shall publish in the Federal Register a notice of each application received.

(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at any time he finds that the noise emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1972, and $2,000,000 for each of the two succeeding fiscal years.

(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. There are authorized to be appropriated to carry out this Act (other than section 15) $3,000,000 for the fiscal year ending June 30, 1972; $6,000,000 for the fiscal year ending June 30, 1973; and $12,000,000 for the fiscal year ending June 30, 1974.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute 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 West Virginia?

There was no objection.

Mr. WYDLER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

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

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

[Roll No. 54]

Abourezk	Evins, Tenn.	Montgomery
Anderson, Calif.	Fisher	Murphy, Ill.
Anderson, Tenn.	Foley	O'Neill
Andrews	Frelinghuysen	Patman
Ashbrook	Galifianakis	Podell
Baring	Grasso	Pryor, Ark.
Belcher	Hanna	Pucinski
Bell	Hansen, Wash.	Railsback
Blatnik	Hastings	Randall
Bow	Hébert	Rees
Caffery	Hillis	Rosenthal
Carey, N.Y.	Kemp	Rostenkowski
Clark	Kyl	Roybal
Clausen, Don H.	Landgrebe	Scheuer
Clay	Leggett	Sisk
Denholm	McCloskey	Smith, Calif.
Dennis	McKinney	Springer
Donohue	Macdonald, Mass.	Stubblefield
Dorn	Mayne	Tiernan
Dwyer	Mazzoli	Vanik
Edwards, La.	Melcher	Wilson, Charles H.
	Mollohan	Wolff
		Wright

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill H.R. 11021, and finding itself without a quorum, he had directed the roll to be called, when 365 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the absence of a quorum was noted, the committee amendment in the nature of a substitute had been read and opened to amendment at any point.

AMENDMENT OFFERED BY MR. WYDLER

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

The Clerk read as follows:

Amendment offered by Mr. WYDLER: Page 42, strike out line 11 and all that follows down through line 20 on page 45, and insert in lieu thereof the following:

"(b) (1) In order to afford present and future relief and protection to the public from unnecessary aircraft noise and sonic boom, EPA (after consultation with the Secretary of Transportation, the FAA, and the Administrator of the National Aeronautics and Space Administration) shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as EPA may find necessary to provide for the control and abatement of aircraft noise and sonic boom.

"(2) Any standard or regulation prescribed under paragraph (1) (and any revision thereof) shall take effect after such period as EPA finds necessary (after consultation with the FAA and the Administrator of the National Aeronautics and Space Administration) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) (1) The FAA, after consultation with EPA, shall prescribe regulations to insure compliance with all standards and regulations prescribed under subsection (b) of this section by EPA. The regulations of the FAA shall include provisions making the standards and regulations of EPA applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this Act. The FAA shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in the FAA by any other provision of law in the execution of all powers and duties vested in the FAA under this paragraph.

"(2) No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act by the FAA, except with the approval of EPA.

"(d) EPA and the FAA, in prescribing and amending standards and regulations under any authority respectively vested in them under this section, shall—

Page 46, line 2, strike out "he" and insert in lieu thereof "EPA or the FAA, as the case may be,".

Page 47, beginning on line 9, strike out "by the Administrator" and all that follows down through line 12, and insert in lieu thereof "in accordance with law."

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

Mr. WYDLER. Mr. Chairman, the bill that is being considered today is one to generally meet the problems of noise in our society, and I thoroughly agree with the committee, and with the bill that is before us today, that this is one of the problems of modern society with which we in the Congress must deal. Certainly the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS) has pointed out the horrors of noise in our society, the damage it does to the people in our society, and the damage it does to the hearing of our children.

No part of this noise problem, Mr. Chairman, is worse than the problem of jet noise. It is the most fearsome noise that we have in our society today, and the fact is that under the present law it is an essentially uncontrolled noise in our society.

Now what would the committee bill do? The committee bill would continue the present situation that exists in our country. That present situation is in effect that the FAA is given the power to set limits on jet noise.

Now I think the FAA has the expertise in this field. I would not deny that for a moment. They are skilled in the questions of designing and building and certifying aircraft and they should be a part of this process.

But I submit to this committee today that continuing in the FAA the power to act in this field by all the evidence that we have in the past 3½ years and by the evidence we have before us today is a waste of time because they have proven that they will do nothing about it and they have told us, in effect, that they will do nothing about it in the future.

First of all, let me say this. Under the general terms of this bill, the Environmental Protection Agency is given all the power to control problems of noise in our country—all except in one field and one field alone—that is the field of jet noise. There it is given to the FAA—not to the Department of Transportation but to the FAA and the FAA alone. They are given the total, complete and sole power to act.

What should we, as Members of the Congress, think about their performance to date? Three and one-half years ago we passed legislation giving to the FAA the power to act in this field. For 3½ years they have not used this power to require the reduction of noise from currently flying aircraft. Those are the planes that are driving people crazy around the airports all over this country.

For 3½ years they have done nothing. When I asked them only a week ago, before a committee of the Congress, the Committee on Science and Astronautics, when they would start—when they would start making their rulemaking procedures, they told me they would not start their rulemaking procedure, which is just the first step in taking act, for at least for another year.

Now I have received promises that they were going to start these procedures time after time and year after year for 3 years after the Congress told these people to act. They are letting down the Congress and they are letting down the public. All we are doing is saying, "We still trust you—we still expect you to do something—we still hope for the best."

I am offering you an alternative which is better—not to throw the FAA out of this picture, but to keep them in the picture—but to put the EPA in control. Let us give them control over the setting of these standards so they can start action.

What is the matter with the committee proposal? The committee proposal says the EPA will consult with the FAA, but they can never consult with the FAA until the FAA takes some action. There is nothing to consult about. That is the situation we have right now.

So I ask that we take some action to give the EPA the power and the authority to get this ball rolling. The FAA will continue to play a significant and important part in the rulemaking procedure—we are not taking them out of that.

You are going to hear the issue of safety raised. Just let me make these points.

Under the Clean Air Act passed by this Congress, we gave to the EPA—to the EPA and not to the FAA the power.

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

(Mr. WYDLER asked and was given permission to proceed for 2 additional minutes.)

Mr. WYDLER. Under the Clean Air Act, we gave to the EPA—not to the FAA—the power of controlling emission standards of jet engines—and that means, the smoke that is emitted from the back of those engines. That also requires some expertise in the way the aircraft are constructed and the material and the equipment that is going to be retrofitted.

We gave such power to the EPA and told them to consult with the FAA in carrying on that function.

That is exactly what I am proposing we do here. We also gave power to the EPA—and not to the FAA—to come up with standards of jet fuel, the actual fuel that the jet aircraft would burn. That power was given to the EPA—of course, they have to use it in consultation with the FAA.

And that is what I am proposing to do in this field of noise control as well. I think the EPA should consult with the FAA. My amendment would so provide.

I think they should also consult with the other agencies—such as NASA, that is doing most of the work in this jet noise reduction field, and I think they will. EPA can give the people something,

something they have not had to this date—and that is some action in this area.

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

The CHAIRMAN. The gentleman from West Virginia is recognized.

Mr. STAGGERS. Mr. Chairman, I should like to remind the Committee again that this is a new start in noise control. I understand that about five, six, or seven amendments have been submitted to the bill. We are trying to bring before you a simple bill that will apply to new products. It is addressed to the manufacturers of these products. If some of the amendments are adopted, we shall certainly divert ourselves from the original purpose to make a simple start. The fact is that the gentleman's amendment should be offered to the next airport and airway safety bill, which will be before us before too long. It belongs there.

I might add, too, that there has been a start made in that direction. We have empowered the FAA to do so, and they have put in the Federal Register a notice, "Civil Airport, Sonic Boom—Notice of Proposed Rulemaking." They are going to work on this problem. They have put that in the Federal Register so everyone can see it. They will provide an opportunity for everyone who is interested to come in and make their presentation.

Recently we passed an aviation safety bill. It carried with it $5 billion over 5 years to see to it that the airways are safe for people to travel in. Do you mean to tell me that you are going to tell such an agency that has been in the business all of these years what is safe and what is not safe? I do not think I would stand for it. I do not think any Members of the House would stand for it. They have said they are working on the problem.

The 747 is a much quieter plane than the older planes. Would you have them take all of the older planes out of the sky today? No; you would not. They are making the new airplanes quieter. They are acting with the expertise they have. These are tremendously large planes, carrying hundreds of additional passengers, and yet they are quieter than the older planes.

There is not a plane in the United States that causes a sonic boom except for military aircraft. We can tell them that they can go out over the seas and do their experimenting. You would not have the FAA say what the military may do. If we do not have—and we do not have—a plane that breaks the sonic boom in our civil aircraft today, then I believe we ought to wait until we get to an aircraft and airport bill and get that subject in the place where it belongs. Then if we want to say something about the military, we can tell the military at that time.

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

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

Mr. WYDLER. First, I thank the gentleman for his suggestion, and I most certainly will take advantage of it if it is appropriate at that time. But I think it is very appropriate in a noise abatement bill to consider the subject of noise, particularly when the chairman of the committee has offered a provision which is almost word for word with my provision, except that I am giving the power to move, to do something about environmental protection to the Environmental Protection Agency instead of to the FAA.

Is the chairman aware of the statement made by the Administrator of the FAA only within the last week to the effect that he considers that aircraft engine noise will cease to be an issue? Is the chairman aware that he made that statement to a group in New York?

Mr. STAGGERS. What was the statement?

Mr. WYDLER. As reported in Aviation Daily, February 16 of this year, Chairman Shaffer of the FAA said he thought that with the record of the 747's and the DC–8's, this was a waste of money. He is the man who has sole control.

Mr. STAGGERS. Let me say to the gentleman that the newer planes, particularly the 747, are much quieter than the older jet planes we have on the market. They are making progress. There is no doubt about it. That is their direction. They are under special direction from the Congress to do it. I have read to the gentleman the docket which has been published in the Federal Register: "Civil Airport: Sonic Boom, Notice of Proposed Rulemaking." That gives everyone an opportunity to come in and be heard.

I do not believe that this is the place or the time. I believe the amendment ought to be offered to another bill at the appropriate time. I am opposed to the amendment.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. Chairman, I hope this proposed amendment will be defeated.

It seems when we find an agency not performing as we think they could or should, we then pass a new law and lay another layer on top of an existing layer. I would like to refer to a debate we had some time ago dealing with cancer legislation, where an attempt was made to move out of NIH into a separate agency, but we felt we should not fragment what we had already done. We admitted we had not done enough. So then we put in some new guidelines and added some new pressure to accelerate and expand the operation.

In this case in our committee we went into this and we felt the layers of research which had been done by the FAA were far greater than and far better than anything the EPA, a new agency, really had done. The EPA is set up as a sort of policeman to direct and to work in this entire field. We proceeded with the idea of putting EPA into a position where they will have a chance to influence what is done, but at the same time we require them to rely ultimately on the FAA. If they are not doing enough, maybe we should call them before our committee to find out why they have not done enough.

Mr. Chairman, I do hope the amendment will be defeated.

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

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

Mr. WYDLER. Mr. Chairman, I agree with what the gentleman is saying to this extent. I would say it would be logical if we were starting a new agency today and starting to grant new power to the agency, to consider very seriously giving such power to the FAA. But the problem is that FAA has had this power for 3½ years and they have not been using it. I would say instead of waiting to see if they would suddenly get religion and change their attitude and their way of doing things, and then do something, I think the time to act is now.

Mr. NELSEN. Mr. Chairman, I would point out when we deal with an engine, maybe in an automobile or an airplane, there are certain things we can do. If we are going to have the horsepower, the engine is going to make some noise. Maybe the things to do is to look to the future and work with the manufacturer, and this has been done. Things will be better. To change some things in existence, they tell me, would cost far more than the good it would do.

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

Mr. NELSEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I oppose this amendment very strongly. We went into this matter in great detail. EPA does not have the competency to go into this. FAA does. There must be a safety factor geared into it.

I must say to the gentleman that FAA has set standards. They are reducing the effective perceived noise decibels from 120 down to 108 and below in the 747's and the DC–10's.

Futhermore, if the gentleman would turn this authority over to EPA, I might tell him what has just happened with respect to air pollution.

Prior to the implementation of the Clean Air Act, the Department of Transportation and the aircraft industry reached an agreement whereby the industry agreed to reduce heavy smoke emissions from aircraft by the end of 1972. In many instances, this requires retrofitting of the aircraft; thus, through FAA efforts we can expect jet engines to be "smokeless" by the end of this year. Moreover, prior to the enactment of the Clean Air Act, the FAA issued an advance notice of proposed rulemaking respecting other types of air pollutants emitted from aircraft. However, section 231 of the Clean Air Amendments of 1970 transferred the authority to prescribe regulations with respect to emissions of air pollutants from aircraft to EPA. This made the FAA advance notice of proposed rulemaking moot. Section 231 required that within 270 days of enactment of the Clean Air Amendments—December 31, 1970, EPA must issue proposed emission standards applicable to aircraft. The regulations thus were due on September 27, 1971. They have not been published to date. Now the amendment asks the EPA noise office—with only 25 personnel—to take on additional responsibilities.

Mr. Chairman, I would urge defeat of this amendment. I think it would be very unsound.

Mr. NELSEN. Mr. Chairman, I thank the gentleman.

May I point out to the gentleman from New York (Mr. WYDLER), that I think in the debate here the gentleman's discussion is going to be helpful, because it does serve as a warning to EPA that they have not done enough. I think this will trigger a little more pressure. Maybe our committee should also look into it. I thank the gentleman for his contribution.

Mr. GUDE. Mr. Chairman, I rise in strong support of this amendment and I commend our colleague from New York (Mr. WYDLER) for his excellent efforts to curb the current jet noise level.

The FAA has failed time after time to move in regard to this jet noise problem. Here in the Washington, D.C., area anyone who lives along the Potomac River Valley will be able to tell you of the many problems caused by the ceaseless jets that soar over their homes and parks. Officers at the National Airport Complaint Center average about 70 calls per month complaining about the jet noise level. One of these officers—and these are the people on the side of the FAA—has said the great majority of the people who call are "very reasonable folks with legitimate gripes."

I believe it is high time we turned over to EPA the authority to move in this field. If we leave this authority where it is presently it is like leaving cabbage in with the goats.

In many instances, my own constituents are seriously affected by the noise level and do not hesitate to say so. One concerned constituent, Dr. Erich Buchmann, a leader in local efforts to curb jet noise, writes that present noise levels are "a farce and a mockery of environmental concepts."

Another constituent, concerned with the noise levels at the summertime Watergate concerts, calls the jet noise "a violent invasion of public property. The setting of these fine concerts is unique. The immortal beauty of the musical programs is drowned out violently. It is an insult to the people of this great city."

Mr. Chairman, for some time the jets have silenced the Congress. It is high time for the Congress to act to silence the jets. The Federal Aviation Administration has had the authority to impose jet noise restrictions for some 3½ years. Their lack of substantive action to date would indicate to me that, at best, a certain ennui has settled over the FAA. I would only wish that some of the rather obnoxious jet noise would settle there as well.

The Environmental Protection Agency was established specifically to handle environmental pollution problems. EPA, therefore, has a legitimate interest in noise control and should rightfully be granted the authority called for by this amendment. It has my strong support.

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

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

Mr. WYDLER. I just wanted to say, relative to the comment of the gentleman from Florida regarding setting air emission standards for jet engines, truthfully I do not know exactly what the procedural situation is in regard to that. Let me tell the gentleman of the testimony which was given before the Committee on Science and Astronautics, on which I serve. We had industry spokesmen tell us they are retrofitting aircraft to clean up the air. They are in the process of doing that. They assure us they have it in hand and are moving fast.

Whatever the reason may be—they may be afraid of EPA, or may be not sure of what EPA would do—but, whatever the reason, that problem is being solved. We did give that power to EPA. We might take a lesson from it.

Mr. ROGERS. And EPA can have that same effect here. They can have them review it immediately.

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

I will not take 5 minutes, but I would like to propound a question to the gentleman from Maryland (Mr. GUDE).

The gentleman made the statement that nothing has been done by FAA in the Washington, D.C., area. Is it not a fact that the FAA has imposed a curfew on jet aircraft?

Mr. GUDE. They imposed a curfew, and then they have moved into a period where they are violating their own curfew.

Mr. SATTERFIELD. Is it not a fact that the FAA has also imposed operating standards for aircraft entering and leaving this area for the express purpose of reducing noise?

Mr. GUDE. They have set these standards, but the jet noise continues up along the river, and they continue to operate jet airplanes into National Airport at the same rate they have in the past.

Mr. SATTERFIELD. I would like to add this, Mr. Chairman: The one thing which I believe is being overlooked here is that it is not just jet engines that produce noise in aircraft. The configuration of the aircraft, the design of the aircraft, and the manner in which it is operated contribute significantly to its noise.

I do not believe it is reasonable to expect FAA to come up with a basic standard for operating procedures to reduce noise, because each of these procedures must conform to the specific geographic requirements at various airports. The FAA is taking action in this direction, and this ought to be taken into consideration now.

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

Mr. SATTERFIELD. I am glad to yield to my colleague on the committee (Mr. CARTER).

Mr. CARTER. I thank the distinguished gentleman from Virginia for yielding. I know he has a particular expertise in this field, for he was a pilot in World War II and has continued since that time.

Is it true that retrofitting the aircraft would cost approximately $1.5 million or more, perhaps $2 million?

Mr. SATTERFIELD. That is my understanding. We are talking about commercial jet aircraft.

Mr. CARTER. And actually it would cost approximately $1.5 billion to retrofit all these planes which are now in use; is that correct?

Mr. SATTERFIELD. That is the understanding I have.

Mr. CARTER. These planes will be phased out gradually, and by 1978 we will have no more that are not retrofitted or have acceptable sound standards. Is that not correct?

Mr. SATTERFIELD. That is my recollection of the testimony we received.

Mr. CARTER. All of them will conform at that time to the present requirements and will have a low decibel rating. I think in just a matter of time this problem will take care of itself. Immediate grounding for retrofitting would ground 50 percent of the present fleet.

I thank the distinguished gentleman for yielding.

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

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

Mr. COLLIER. The gentleman from Virginia directed a question to the gentleman from Maryland with regard to the curfew, and I did not quite get the gentleman's answer. The fact of the matter is that the curfew has not been violated. I would like to have him cite one instance where the curfew, which requires all planes to land in this area before 11 o'clock at night has been violated. I do not believe it has been violated in one instance where planes have been allowed to land after 11 o'clock at night or before a certain time in the morning. The regulation has not been violated.

Second, I remind the gentleman that just a year before he came to this body the Administrator of the FAA made an effort to do something about the Washington noise problem, and that was to have all flights coming into Washington from a distance of over 500 miles away land at Dulles Airport. It was the Members of Congress, and let us not kid ourselves on that score, who opposed this and stopped it. We could have gotten some relief then. We did not get the relief because certain Members of this body preferred to land at Washington National Airport because they did not want to be inconvenienced. So, if we are to blame anyone, do not blame the FAA but, rather, the Members of this body.

Mr. SATTERFIELD. Mr. Chairman, I want to conclude my remarks by saying that I believe we are oversimplifying this issue. One thing which concerns me is that Congress might place in the hands of an administrative agency the power to require through standards that which exceeds our technological capability to provide. I think we should leave these decisions in the hands of the FAA which possesses the necessary expertise, if for no other reason than to guarantee the maximum safety for the traveling public.

Mr. ADDABBO. Mr. Chairman, I rise in support of the amendment offered by my colleague from New York (Mr. WYDLER).

I have been here for 12 years now and I have heard the same argument over and over again. I represent the area of Kennedy Airport. The committee had said 12 years ago that they cannot touch an airport noise because it is outside the Federal Government's jurisdiction. They said it is local. For about 7 or 8 years we have had this question raised, without any action taken on it. We were still being adversely affected by aircraft noise, and then we found that we were able to get through Congress a bill giving the FAA the authority to set noise levels, but all they have done in 3 years is set them on new airplanes. The people living near the Kennedy airport do not have the privilege—they do not have the privilege—of getting a curfew. They have 24 hours a day of continuous noise. An airplane is taking off or landing every 30 seconds of the day, and we are asked that the authority over this matter continue to be given to the FAA to set the noise levels. They have done nothing and they have not implemented the authority that we have given them.

Just recently, very recently, one of the officers of the FAA had the audacity—the audacity, mind you—to say that the airline association would work on that problem. The FAA has been all along and for too long airline oriented. We need a new agency which should be people oriented so that the people of my district do not have to have a drive into Kennedy Airport to try to focus attention on the problem that they live with day in and day out.

Under this bill, if the EPA has the authority, then my people would be able to bring an action, if no relief is given, to get the relief to which they are entitled and to which every person living in and around an airport would be entitled.

The people's health should not be secondary to the economics of the airlines.

I ask for the passage of this amendment so that the people may finally look forward to a good night's sleep in the near future.

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

Mr. ADDABBO. I yield to the gentleman from Maryland.

Mr. GUDE. The question was raised earlier about violations of the curfew. The violations have been so bad that finally in September of 1971 citizens of Virginia brought suit to ban all jet traffic after 11 p.m. The post-11 p.m. traffic had been going on since April of 1970. The suit which is still pending in court asks that the FAA act immediately to halt the post-11 p.m. jet operations at National and file reports on the environmental impact of the stretch jets. FAA's record of reducing airport noise in the vicinity of National is a miserable one. In the last 12 months there has been a 6 percent increase of operations at National with a half-million more passengers while Friendship operations are down 10 percent with a loss of 200,000 passengers and Dulles operations are down 2 percent handling 20,000 less passengers.

It is high time that we direct FAA to divert this noisy, bothersome traffic to Dulles and Friendship—in particular the Nation's taxpayers are entitled to have better utilization of Dulles in that they footed the bill for its construction.

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

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

I think that the emphasis—and I want to echo the remarks of my colleague, the gentleman from Virginia (Mr. SATTERFIELD)—on the intricacies of trying to regulate airport noise involves the fact that you are going to have to regulate glide slope, you are going to have to regulate the approach, you are going to have to regulate the area, the altitude of the airport, the type of plane involved. And all of these factors go into the FAA regulations as to what type of approach you have, as to what type of approach you use on a particular field and at what place in the United States.

Mr. Chairman, the key factor that must be dealt with and with which we must be involved is the factor as to whether or not that plane has enough power to approach safely into a particular field.

The new planes are being changed, but to retrofit all of the old ones, as has been mentioned, will run into several billions of dollars which the airlines do not have. So we simply would move out of the airline traffic in the United States at the present time all of the planes that came in prior to the passage of the statute which this Congress enacted and which has been enforced by the FAA.

Mr. Chairman, to say that they are not moving at all is to ignore the fact that every airport in the United States has a noise factor.

There is also present in many jurisdictions of the United States, including the jurisdiction of several Members who have spoken on this amendment, complaints by local people with regard to the noise patterns of that area. The committee very carefully drafted this bill to say that that situation would be dealt with, and the committee was also very careful to see that FAA answers were being looked at. That is one reason why EPA is mentioned in this bill.

You simply cannot have the EPA, based upon the number of airports in the United States, going to each of those airports and saying, "We are going to have a certain type of engine that can land at Huntington, W. Va., and National Airort and the same kind of approach pattern and have any type of safety factor involved."

Mr. Chairman, the way to handle local noise problems is to handle it in two fashions. One is to let the local jurisdiction determine what the pattern will be and what they will allow in their areas and the second—and this applies directly to the FAA equally—to determine whether or not the noise to the approach pattern is faulty. That type of challenge is being made and met and is one of the reasons why you have at National Airport a very stringent set of standards that are not applicable at Dulles.

Mr. Chairman, those who sit on the committee are very much aware of this. I think the Subcommittee on Public Health has done an excellent job of trying to say, "All right; let us have another agency watch the FAA," but please do not oversimplify what you can do with an airplane in taking off and landing in terms of the safety of the traveling public.

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

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

Mr. WYDLER. Well, to repeat, there is no attempt in this amendment to take FAA out of the picture. They will still be in the picture because they are still going to certify the aircraft and issue the regulations.

The thing which would be accomplished by the adoption of my amendment is the fact that we will have EPA involved with FAA so that FAA will start doing something about putting out regulations to reduce jet noise.

It is all right to try to do it with procedures and special rules and this kind of thing, but to get to the source of the noise, the engine, requires some action on the part of the FAA. They refuse to take the necessary action to reduce the noise in the currently flying planes. They are the ones that are driving the people crazy.

Mr. ADAMS. Also, you have the situation of presently flying airplanes which involves about 50 percent or 60 percent of your fleet and you determine, or EPA determines that all of those airplanes do not meet a specific engine standard, how can they meet that engine standard if they are landing at so many feet above sea level, but above that they cannot because they are going to have to apply more power?

Are you going to go to the airlines and to the traveling public, and say you have got one of two choices, either 50 percent of the planes are going to be grounded, or you are going to take a chance when you go in as to the amount of power you will use?

That is why we are saying that the EPA should look at what the FAA does, but not to come in and try and set those standards with the number of aircraft of varying design and the number of airports we have throughout the Nation.

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

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

Mr. Chairman, in most of our major cities land use of areas surrounding airports is testimony to the fact that the jet age caught us by surprise. With few exceptions, our major airports are close to, or surrounded by, residential areas.

Prior to the development of modern aircraft, the allotted area for airport space seemed sufficient and noise was not a severe problem. With our modern jets, noise has become a significant environmental problem. The problem is not likely to be solved until Congress properly delegates to the appropriate Federal agencies the responsibility for establishing and enforcing effective, yet realistic, noise controls.

The FAA has been charged with this responsibility, but its willingness to impose meaningful noise control regulations is less than enthusiastic. In my judg-

ment, this authority, or at least some of it, properly belongs to the Environmental Protection Agency. EPA now sets noise emission standards for noise from sources other than aircraft. It has a strong track record as an advocate of environmental causes, and it does not have the same conflict of safety versus sound that is inherent in FAA authority.

As a representative serving an area which includes an international airport, I view the FAA versus EPA question as more than an intramural contest for jurisdictional authority. FAA is charged with establishing safety standards, and while these standards are not necessarily in conflict with noise control measures, the FAA will, and should, always concentrate on its safety responsibility. Yet the aircraft noise problem continues to be a source of great irritation in addition to being an environmental hazard. I believe we can stand up for less noise without sacrificing vital safety considerations. We can give the EPA its appropriate role in noise reduction without vitiating the FAA safety controls.

I ask the support of my fellow Members for the Noise Control Act of 1972 and for the WYDLER amendment.

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

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

Mr. WYDLER. Mr. Chairman, in answer to the question propounded by the gentleman from Washington (Mr. ADAMS), I would say this—that under either proposal, the committee proposal or my proposal, the final regulations that would be established would be a cooperative venture. In the committee bill between the Environmental Protection Agency and the FAA, in my bill between the Environmental Protection Agency, the FAA and NASA, who actually is doing most of the work in the noise reduction field, but either way it would be a cooperative effort, and the regulations would take into account all of the technical problems we are raising. And the expertise would be available that we are talking about. There would be no change in that. But EPA would be able to start the rulemaking procedures that FAA neglects. I also want to tell the gentleman, because he does not seem to be aware of, that we can reduce the noise in the current engines that are flying now.

I have in my hand a chart from the National Aeronautics and Space Administration which was submitted to our committee just in the last week during the hearings we are conducting on jet noise in the J3B, the J8B engines, which are the engines in the 707's, the DC–8's and the 727's. That is where the real noise is. These charts show that we can achieve a reduction of more than 50 percent of the noise in those planes of all types, takeoff noise, approach noise, sideline noise. This can be done. We have the technology to do it. What we need is somebody to say, "Let us do it." And apparently after 3½ years of waiting for the FAA to start to do something, I believe the Nation should have some action in this field. If FAA does not intend to do anything about it, then I say that some action should be taken on behalf of the public, not of the airline industry. That is the real safety we are talking about. We are talking about the financial safety of the airlines, and their economic problems, and that is important, but it is also important to give the people who live around these airports a little relief, the relief that we in the Congress of the United States promised them 3½ years ago, and that has not been done to date.

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

Mr. FRENZEL. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, in response to the gentleman's statement, I would say that I am very familiar with the engines that the gentleman has mentioned, and know the noise suppression devices that would be placed into them, but the factors we are talking about, the major factors will require, as the gentleman from Kentucky (Mr. CARTER) pointed out a little earlier, a retrofitting of the entire powerpacks of those planes. And when you retrofit that entire powerpack it means to take that plane and, in effect, rebuild the entire engines, and the craft itself. So the entire industry goes off the line.

As I stated before in my question to you, the FAA is trying to handle it, and with the new aircraft that they are trying to handle it by noise standards, and whatever they can to reduce that noise problem. But I do not think the EPA can, if the gentleman wants to put them in, be prepared to say, "All right, we will put 50 percent of the line out of business, or take the chance on the safety of the flying public."

Mr. WYDLER. If the gentleman will yield further, I am not saying that at all. These proposals, and they are submitted as proposals, can be retrofitted into the present aircraft. It does not mean you have to put planes out of service or out of fleet operation at all, except for the period of time it takes them to be retrofitted. But smoke reduction equipment is a requirement on the airlines today. Just as on the question of smoke emission, you remember that everybody was upset about that, and we required that the airlines do that, to use the smoke emission reduction equipment. They did that and the airlines survived. I did not say that we want the airline industry to come to a complete halt. We do not want to do that.

It will not do that. But I think what we have to decide here—and this is an environmental issue—are we going to protect the people from this horrible problem of noise or are we not? Or are we going to consider only the interests of the industry involved?

Mr. Chairman, I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

I will not take the full time allowed except to say the committee has gone into this subject very thoroughly. It is a very significant action. We did this by requiring the EPA to be consulted by the FAA right at the beginning so they will have the input into what the standards will be. That must be done right at the beginning. Then, if the EPA is not satisfied with a standard, they can require a review of that by the FAA just by asking them. They must respond under the law.

Furthermore, if that is not satisfactory, they can require them to point out in the environmental impact statement how it would affect the EPA proposed standard versus the FAA. They have to tell the various effects.

So we have the pressure on them.

Now the EPA still must come to the FAA on safety. We all know that. We have to be reasonable. So what we have done is to assure the input of the EPA, but we assure the public safety by leaving the final decision to the FAA. That is what ought to be done. This amendment ought to be defeated.

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

Mr. ROGERS. I yield to the distinguished chairman.

Mr. STAGGERS. Mr. Chairman, I would just like to say in conclusion, on the question of safety, we debated this issue in this Congress not too long ago and we put $5 billion in back of it.

I say to the Members of this Congress, by letting this amendment go into this bill, there may be thousands of people killed.

Mr. Chairman, this amendment ought to be defeated at this time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WYDLER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MIKVA

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

The Clerk read as follows:

Amendment offered by Mr. MIKVA: Page 42, lines 13, 16 and 18, strike out "and sonic boom" wherever it appears in such lines.

Page 47, insert immediately after line 12 the following new subsection:

"(c) It shall be unlawful to operate a civil aircraft within the navigable airspace of the United States at speeds which would produce a sonic boom, thereby creating a measurable or audible overpressure on the surface. For the purpose of this subsection, the term 'navigable airspace' shall have the same meaning given such term by Sec. 101 (24) of the Federal Aviation Act of 1958 (49 USC 1301 (24))."

Mr. MIKVA. Mr. Chairman, on behalf of myself and my distinguished colleague from New York (Mr. ROSENTHAL) I intend to offer two important amendments to the Noise Control Act. Both amendments are intended to make life a little less painful for people living near major jetports. My new district includes most of the homes surrounding the Nation's busiest and loudest airport, O'Hare Field in Chicago. Congressman ROSENTHAL'S district includes the area around the Nation's fourth busiest airport, La Guardia Airport in Queens.

Our first amendment proposes to prohibit sonic booms over U.S. land by commercial jets. The second would set up a commission to study the idea of impos-

ing a curfew on noisy jet flights into and out of airports in populous areas during normal sleeping hours of the night.

Mr. Chairman, as I said in my statement during the debate, the Noise Control Act is basically a sound bill, and I expect to vote for it. But it needs to be strengthened in several important respects.

This bill's treatment of the sonic boom problem is most depressing. It constitutes a license to operate the supersonic transports in this country.

The FAA already has the authority to set sonic boom standards; that authority is not affected by this bill which merely provides that the Federal Aviation Administrator must "consult" first with the Secretary of Transportation and the EPA Administrator. This is hollow tokenism.

I urge this section be deleted and in its place the House enact a total ban on sonic booms by civil aircraft in U.S. airspace.

We all know what a sonic boom is and what it does. We also agree that it is bad and that we do not want it. The real question is how decisively we are willing to assert ourselves.

H.R. 11021 leaves unacceptable loopholes for squeezing through an ear-shattering supersonic flight.

The FAA, under a proposed rule written when that agency was still vigorously trying to sell the American people and the Congress an SST we did not want, can permit supersonic flights by civil aircraft over any part of the United States if the sonic boom does not reach the ground.* Exceptions are made for research and development flights.

These exceptions give the FAA full authority to go ahead and approve sonic boom-producing flights for such vague reasons as "assisting aircraft development" or "studying sonic boom effects." This is a significant erosion of the Government's original promise to prohibit civilian supersonic flights over the United States.

The FAA has said it opposes any legislative action prohibiting sonic booms.

The FAA has said it feels sonic boom prohibition should be done by FAA regulation rather than by act of Congress.

Why? Because regulations are more flexible than laws. They can be changed more easily.

The United States may be out of the SST business for the time being, but the aviation industry, the current administration, and especially the FAA hope we will be back in before too long. Meanwhile, U.S. airlines may very well be buying and flying foreign-made SST's and certainly the airlines of several friendly nations will.

Concorde, the Anglo-French SST, was designed and built to fly between New York and Europe, especially London and Paris. Both sponsor governments have invested billions of dollars in the project along with their national pride and possibly their political and economic futures. They do not want to see their airplane fail. You can be sure they will be willing to put great pressure on the U.S. Government, both directly and through their friends in the aviation industry, to relax threatening barriers to the Concorde.

Concorde, incidentally, is supernoisy even at subsonic speeds. It is considerably louder on the ground than any other airliner in current use—and we know how noisy those are.

The sonic boom may not be a serious threat to inhabitants of the United States for flights between London and New York where most of the distance is over water.

But what happens when the U.S. airlines, which invested heavily in SST's to meet foreign competition on their international routes, want to put their supersonic planes to work on the lucrative domestic routes, say New York to Los Angeles?

Some conservationists say an SST on such a flight would trail a thunderous boom along a path 50 miles wide and disturb the peace of 20 million Americans. One noise expert contends it could cause heart attacks and hearing impairments for many of those 20 million.

Tests in West Germany, France, and England as well as this country show sonic booms cause structural damage to buildings.

What happens when the airlines want to use their SST's on U.S. domestic routes? Will the FAA, in the interest of promoting aviation, grant them permission under its proposed regulation in the guise of "assisting aircraft development" or "studying sonic boom effects?" Or will the regulation be changed? Will the Government and industry launch a public relations campaign to tell the American people that the boom is a nice thing to have around—"a 20th century sound," as Boeing calls it—a symbol of prosperity and progress for the Nation?

Perhaps it will be explained in terms of preserving and protecting the free enterprise system and the U.S. balance of payments. Or perhaps the ban on the boom will be lifted to meet a stirred-up public demand for domestic SST service, implying the boom must be good because some people want the flights.

This Congress has decided that the SST poses a threat to the environment, among other things. Approval of H.R. 11201, with its gaping loophole for intense noise pollution, would contradict the already expressed will of the Congress and of the American people.

We must amend this bill so that it decisively prohibits all sonic booms produced by civilian aircraft. This is too important to leave to the discretion of others.

Secretary of Transportation Volpe has said supersonic transports would—

> Not be allowed to fly over populated areas unless and until the noise factor comes within *acceptable* limits. [Emphasis added.]

"Acceptable" was never defined.

Who would determine "acceptable limits?" The FAA, which makes the rules and is charged with promoting aviation?

Years of research still have not produced any method of eliminating the sonic boom or even significantly muzzling it. Secretary Volpe is confident:

> If we cannot lick the sonic boom problem in 10 years, I do not know the United States of America.

Many persons are wary of the FAA's promise to protect them from the sonic boom. They fear that some day there will be boom-producing supersonic flights over populated areas even without Secretary Volpe's hoped-for breakthrough. They fear it will begin by allowing the boom "only within acceptable limits" and then subtly redefining what is "acceptable."

The sonic boom is clearly unacceptable.

And it is destructive. Just ask the U.S. Air Force and the 12,000 persons who filed damage claims as a result of sonic boom testing. The Government has paid about a half-million dollars in settlements so far on sonic boom damage claims.

Noise and health authorities have said sonic booms could cause hearing impairments and possibly worse damage for persons in SST flight paths.

Because the sonic boom is unacceptable, the Congress should not give the FAA such broad authority to regulate and possibly permit this threat to the public health and welfare. The Congress should leave no doubt about its abhorrence for the sonic boom.

There must be an absolute ban on sonic booms by civilian aircraft over the United States.

I urge my colleagues to support this amendment to "ban the boom."

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

The CHAIRMAN. The gentleman from West Virginia is recognized.

Mr. STAGGERS. I respect the gentleman from Illinois very much in what he is trying to do. I should like to say, first, that we do not have any civil aircraft that will produce a sonic boom at the present time. The gentleman mentioned the Concorde. We do not know whether it will ever be flying to this country or not, and if it does, I am sure it will not be flying across the country.

I might say to the gentleman that the amendment is not necessary because the FAA states now that final sonic boom regulations will be issued by the FAA this year. They are now in the Office of the Secretary of Transportation.

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

Mr. STAGGERS. I am happy to yield to the gentleman from Illinois.

Mr. MIKVA. If that is so, what is the objection to my amendment, which simply states that there will be no sonic boom over the land areas of this country? I should like to share the hope that our airlines will never try to fly such aircraft, but suppose they do? In the past the FAA has allowed them, or has issued regulations suggestive of allowing them to do so. My amendment would be a statutory prohibition against sonic booms over the land areas of this country.

Mr. STAGGERS. There are some reasons for leaving the matter where it is. Some of them relate to testing they might need, and there are other things. But I would say to you that they are

*FAA Notice of Proposed Rule Making; No. 70-16, issued April 10, 1970, and still pending as of this date.

adopting regulations. They already have them prepared. They are in the Secretary's office. I do not believe the provision ought to be in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. MIKVA. Page 47, insert immediately after line 12 the following new subsection:

"(c) (1) There is established the Airport Noise Curfew Commission (hereafter referred to as the 'Commission'). The Commission shall study and make recommendations to the Congress regarding the establishment of curfews on non-military aircraft operations over populated areas of the United States during normal sleeping hours. The Commission shall report its findings and recommendations to the Congress no later than six months after the date of the enactment of this Act, at which time the Commission shall cease to exist.

"(2) The Commission shall be composed of nine members, as follows: four appointed by the Speaker of the House, three appointed by the President Pro Tempore of the Senate, the Administrator of the Environmental Protection Agency and the Administrator of the Federal Aviation Administration. One each of those members appointed by the Speaker of the House and the President Pro Tempore of the Senate, respectively, shall represent the aviation industry; the remaining such members so appointed shall be private citizens not involved in the aviation industry. One of the public members shall be elected chairman. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(3) Except as provided in Paragraph (4), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

"(4) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

"(5) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(6) Subject to such rules as may be adopted by the Commission, the Chairman may appoint and fix the pay of such personnel as he deems desirable. The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(7) Subject to such rules as may be adopted by the Commission, the Chairman may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(8) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"(9) The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

"(10) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

"(11) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

"(12) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(13) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(14) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter which the Commission is empowered to investigate by this subsection. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States."

Mr. MIKVA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I will explain it.

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

There was no objection.

Mr. MIKVA. Mr. Chairman, I rise to offer an amendment to H.R. 11021 to take the first step toward solving the problem of aircraft noise pollution. What I propose is a thorough study of the possibilities of establishing curfews on nonmilitary flight operations at the Nation's airports.

My amendment would set up a nine-member Commission consisting of the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration, two representatives of the aviation industry, and five public members. They would report the findings of their investigation and their recommendations to the Congress within 6 months of this act.

This Commission would be a temporary investigative body, not a new governmental agency. It would exist solely for the purpose of informing the Congress and would go out of existence upon submitting its report and recommendations.

A curfew on aircraft operations is a short-term solution to the problem and is not meant to be an alternative to such long-term answers as quieter engines and improved operational procedures. Both approaches are needed; they are complementary.

Mr. Chairman, the problem of excessive noise abuse from jet traffic has dominated citizens' concerns ever since the first jets began swooping and soaring over their homes. The situation has deteriorated for residents as jet traffic has increased to a point of a constant bombardment of noise. Studies amply demonstrating the psychological and physical traumatic effects on people have been made on the debilitating effects of jet noise. The noise impact is 10 times more disturbing during the normal sleeping hours, when it is much more difficult to assimilate sounds, than during the day.

One of the few successful attempts at regulation has been the ban on late evening and predawn jet traffic at Washington National Airport. I strongly urge other airports to follow this example. It is morally, socially, and environmentally necessary.

The community residents near O'Hare Airport like those in other cities, suffer the consequences of decades of neglect of the noise pollution problem. Most of them were there before the jets arrived.

They used to live in comfortable, convenient neighborhoods which, while noiser perhaps than rural areas, nonetheless struck a reasonable balance between city hustle and bustle and suburban quietness. But today, that balance is gone. Now those people come home from their jobs and find themselves beneath an intolerable roar as jetliner after jetliner screeches over their roofs. The night does not bring peace to them because O'Hare and the airlines do not understand or recognize the citizen's right to quiet.

Alleviation of this situation is not terribly difficult. A reasonable solution would be to begin curtailment of all nonmilitary air traffic from scheduling departures and arrivals between 10 p.m. and 7 a.m., the hours normally reserved for sleeping.

The number of passenger flights occurring during those hours is only 11 percent of the total at O'Hare. But this number does not seem small if you happen to live nearby. When added to the cargo flights at those hours, the din of the aircraft becomes almost unbearable. Aircraft noise during the normal sleeping hours has a compounding impact on residents because the noise cannot be assimilated as it is during the day with other noises. One jetliner taking off at midnight has 10 times the effective noise impact of the same plane taking off at noon. Besides, some 491 cargo flights occur during those hours at O'Hare. Added together, sleep is hard to come by for the people who live near O'Hare.

Washington National Airport prohibits scheduled jet commercial traffic between 10 p.m. and 7 a.m. The FAA, which runs National, and the airlines operating out of the airport, have a voluntary agreement on the night flight limitations. The agreement began in 1966 and has worked rather well. Only minor adjustments by the airlines were needed in rescheduling flights to conform. Similar agreements exist in Los Angeles, and Fresno, Calif., and Boise, Idaho, as well London, England, and many major European cities.

The constitutional right of domestic tranquility includes freedom from oppressive noise. Steps must be taken by airport managements, airlines, and pub-

lic officials, including the Congress, to protect and respect the right and to halt the acoustic abuse heaped mercilessly upon the citizenry.

I urge my colleagues to support this amendment establishing a commission to look into the possibility of imposing a curfew on the late night flights by noisy jets.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment. I hesitate to do this because of my friendship with the gentleman, and I know his sincerity, but I do not believe this is the place, and I do not believe this can be done on a nationwide basis. I believe it would be setting up a useless commission that could not deal with all the airports in America. It would be superfluous. I do not believe it should come in this bill. This is not the proper place for it.

Mr. Chairman, I oppose the amendment.

Mr. WYDLER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would just like to take this moment to make a point on the floor of the House, which I think is important to the future of the airline industry in our country. Recently we have had someing called the CARD Report issued as a national policy for our aviation industry. That report indicated one of the main problems facing the future of civil aviation in our country is the problem of jet noise. That report is correct.

Mr. Chairman, I warn the airline industry that they are going to come up short again if they do not take cognizance of this jet noise problem. For years they thought they could ignore it and economically benefit by ignoring the problem. The result of that has been that in the past decade they have made themselves bad neighbors, and they have not been able to find a jet port site near many urban centers in America. In the last decade nobody has wanted them around. They are hurting economically as a result.

Mr. Chairman, I am going to predict on the floor of the House that unless they act to alleviate this jet noise problem, and start retrofitting programs, they will be sorry again, because the result is going to be a further economic loss to the airline industry. The people will retaliate, as they have a right to do, by curtailing the use of the current jet ports in our country. They will start closing the jet ports down during the night—not just National Airport in Washington, but all major jet ports in America will start to close down. People are going to get—and rightly so—a restriction on the use of the current jet airports which service our major population centers.

At that point the airline industry is going to realize that what it thought was economy by saving this money on the retrofitting of planes and making them quiet, bearable and livable, will be a severe blow to them and civil aviation in our country. I see that coming. I predict it is going to come as surely as we are meeting here today. It has already started. It will not be stopped unless the airline industry makes hard economic decisions to give the people on the ground who suffer from this problem the relief to which they are entitled.

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

Mr. Chairman, I rise to inquire about a couple of items in this bill. On page 50, line 10, it is stated:

> Paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply with respect to any product which is manufactured solely for use outside any State.

Do I correctly understand that language means outside the United States, and deals with exports?

Mr. STAGGERS. That is correct.

Mr. GROSS. This is a part of the prohibited acts section of the bill. Am I to understand we are perfectly willing to export to foreign countries products which make such noise that we do not intend to tolerate them in this country?

Mr. STAGGERS. I might say to the gentleman, I believe he understands we had to do this in order to compete, because many countries bring in inferior products and use them. They pay less for them. If we are to compete in any way we have to have ours. They do not have standards. We cannot set standards for any other country in the world. If they are importing these from other countries, we say our people can compete.

Mr. GROSS. The point is that we are perfectly willing to export to foreign countries that which we claim is injurious to humans and which we will not tolerate in this country.

Mr. STAGGERS. That is correct, and that is what we do with all other products I know of.

Mr. GROSS. Then I seriously question how sincere we are here today about abating noise allegedly as an aid to the physical well-being of humans.

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

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

Mr. NELSEN. What we have done in the bill is to require that whatever we manufacture for export must meet the standards of the country to which we make the export. For example, in our automobile situation we find that if they do not have the proper fuel what we put on an automobile would be wasted. There can be many other instances like that.

Mr. GROSS. On page 51, line 3, it is stated:

> A person who does any act in violation of paragraph (1), (2), or (3) of section 10(a), and who establishes that he did not have reason to know in the exercise of due care that such act was in violation of such paragraph, shall not be subject to a civil penalty under subparagraph (A).

What kind of a loophole is being provided here, and for what reason? This is obviously some kind of a loophole.

Mr. STAGGERS. If the gentleman will yield further, I would say that if a person does not know his article violates the regulations we do not think he ought to be punished if he does not know.

Mr. GROSS. I want to turn once more to page 53, and section 12, "Citizen Suits." I am sorry that more of the Members were not here earlier this afternoon to hear the colloquy between the gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from Florida (Mr. ROGERS) on this section. I am still far from convinced that this provision in the bill is not a wide-open invitation to nuisance suits that will be brought against those who may be the least able financially to defend themselves.

Mr. STAGGERS. I might say to the gentleman from Iowa that this is the identical language we had in the air pollution bill.

Mr. GROSS. Yes, and I will say to the gentleman I am getting more mail all the time from people who are adversely affected by the provisions of that bill.

Mr. STAGGERS. They will be, I am sure, and as time goes on the gentleman will get more, because this is one of our great problems of the day, air pollution.

Mr. GROSS. I will say to the gentleman that I am not willing here again today to compound the error that was made in that bill, and the so-called safety legislation. I think that is what will happen under the provisions of section 12, entitled "Citizen Suits." I believe it is an open invitation to nuisance suits that will be brought against a lot of businessmen in this country.

Mr. Chairman, most people seek peace and quiet. I know that I do, but I also know that in this day and age it is utterly impossible to eliminate all noise especially in the areas where there are heavy movements of traffic of all kinds. I also know that the States and municipalities, through the enactment and enforcement of laws and ordinances, can make a far better contribution to the elimination of noise than they have in the past.

This bill calls for the expenditure of $26 million with which to spoon feed a new layer of bureaucrats and I am as convinced as I am that I am standing here that these payrollers will duplicate and overlap the functions of the environmentalists and others who are already spending millions upon millions of dollars.

All this is borrowed money and at a time when the Nation is confronted with a financial crisis. I am willing to endure some noise until I can be assured that the Government and the people of this country can be saved from moral and financial bankruptcy. I will vote against the bill.

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

Mr. Chairman and Members of the House, I presently and for many years have represented the district which encompasses the busiest airport in the world, O'Hare International. It has operations every 37 seconds. I think I would be remiss if I did not at this time make as a matter of record my comment with regard to the pending amendment of my good friend from Illinois.

This problem of establishing curfews and going to the FAA seeking regulations which provide for relief from the noise problem in the area is nothing new. I served on the Aviation Subcommittee 15 years ago when we were dealing with this very problem. But I think we ought to get one thing straight: We have a curfew at Washington National Airport because Washington National Airport and Dulles are in a totally unique position. They are not municipally operated

but instead under control of the Federal Government. O'Hare International Airport is operated by the Chicago Municipal Airport Authority. There would be not one plane going in or out of O'Hare field after 11 o'clock at night if the local airport authority did not approve it. So it is well and good to suggest bringing the complaints to Washington and have the FAA do the job when in reality the responsibility presently exists with the local airport authority.

So let us not beat around the bush here. If we want this job done, I suggest that if you have an interest in providing this relief, you should go to the Chicago Airport Authority, which is an arm of the city administration of Chicago, get relief at the source. They have the power to stop any flights after 11 o'clock if, in fact, we want a curfew. I think that ought to be made eminently clear, and I hope we have done so today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The amendment was rejected.

AMENDMENT OFFERED BY MR. RYAN

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

The Clerk read as follows:

Amendment offered by Mr. RYAN: Page 56, line 23, insert "(a)" immediately after "SEC. 14."; and insert after line 3 on page 58 the following:

"(b) The Administrator may make grants to States and other public entities to develop, establish and conduct programs of noise control, prevention, and abatement, and to establish and conduct demonstration projects to develop and evaluate new techniques, approaches, and methods in the control, prevention, and abatement of noise. The Administrator shall by regulation prescribe the form, content, and manner of submission of applications for grants under this subsection. Payment of grants under this subsection may be made in advance or by way of reimbursement, and in such intervals and on such conditions, as the Administrator finds necessary. There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974, for grants under this subsection."

Mr. RYAN. Mr. Chairman, this amendment would establish a program of grants to States and local governments in order to develop and conduct programs of noise control and abatement and to establish and carry on demonstration projects to develop and evalulate new techniques and approaches.

Throughout the course of the hearings before the Subcommittee on Public Health and Environment, one theme continued to be stressed: that States and local governments have a significant responsibility in the control, abatement, and prevention of noise.

Recognizing this, the committee bill provides for technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including, but not limited to advice on training of noise control personnel and on the selection and operation of noise abatement equipment, and in the preparation of model State or local legislation for noise control.

Although advice and technical assistance is necessary, it is not sufficient to enable local governments to conduct meaningful noise control programs. What must be added is a comprehensive system of grants which will allow State and public bodies to develop, establish and carry out noise control programs and projects.

Noise control takes money, and there is no getting around the fact that local communities are particularly hard-pressed for funds. Given the significant role that they must play in combating this most serious hazard, I believe that it is imperative that the Federal Government do whatever it can to alleviate the financial burden of States and local governments in dealing with noise pollution.

Perhaps the best illustration of the role Federal financial assistance can play in noise abatement is the example of the crucial role Federal funding has played in the development of New York City's air pollution control program.

Federal funding for State and local air pollution programs is provided under the program grant section of the Clean Air Act in four stages: (1) development grants, usually made for a 2-year period, but may be continued into a third; (2) establishment grants, made for a 3-year period, the first of which may overlap the development grant; (3) improvement grants, also made for 3 years, the first of which is again an extension of the establishment grant; and (4) maintenance grants, to be made annually once the program is fully established.

Before the availability of Federal financial assistance in 1966, the New York City department of air resources had an annual budget of less than $900,000 and a staff of 120. In fiscal year 1966, that department received a 3-year establishment grant of $500,000. This grant enabled the department to create an emission inventory unit to define the names and sources of every significant air pollutant in New York City. This project provided the basis for the advancement of New York City's activities into a management program. Thus, in 1968, when the Department of Air Resources embarked on its implementation of new air pollution control legislation, it was a Federal maintenance grant of $860,000 per year that provided the springboard for a doubling of the total air pollution control budget from $2 to $4 million and thereby an escalation of the city's efforts to combat air pollution.

During the past 3 years, the Department of Air Resources has received $2.7 million in Federal maintenance assistance. In fiscal 1969, this maintenance support represented 25 percent of its $4.1 million budget, and in 1970 28 percent of $4.4 million. In 1971, this figure increased to about 35 percent of a total budget of $5.1 million.

According to the administrator of New York City's Environmental Protection Agency, Jerome Kretchmer, Federal funds paid the salaries of 36 percent of New York's inspection and field staff, greatly increasing its ability to serve summonses to violators of New York's air pollution code.

Federal assistance has also permitted the existence of additional high level technical positions. In 1968, when the New York City Department of Air Resources initiated a 10-station automatic air monitoring system to complement preexisting manual stations and permit a continuous definition of the air pollution problem in New York City, it was Federal funding which made possible much of the required technical work in design and installation. Since then, it has been in large part the Federal contribution which permits the maintenance and servicing of New York City's aerometric system, including the compilation of data for the daily air quality report.

Not only would such financial assistance enable States and localities to undertake programs which otherwise may remain unimplemented, but a grant program would serve also as incentive for greater local initiative in the area of noise control.

There are those who, although they favor the concept of grants, would suggest that we wait a few years before endeavoring such an undertaking. Although I can understand their concern, noise and its dangers are growing at such an alarming rate that we simply cannot afford the luxury of a wait-and-see approach. Urban noise has doubled since 1955 and is expected to double again by 1980. And evidence presented at the June 1971 meeting of the International Standardization Organization in Geneva, Switzerland, indicated that if this trend continues, every urban dweller will be deaf by the turn of the century.

Quite clearly, the time to act is now.

The idea of grants to aid States and localities in combating noise pollution is not new. In the 91st Congress, I introduced legislation to establish such a program. Much of the reason that affirmative action was not taken on this legislation was that the Congress was in the process of mandating an Office of Noise Abatement and Control within the Environmental Protection Agency with the task of preparing a comprehensive study on noise. It was felt that we should wait until the report was completed before embarking on a major grant program.

That report is now complete. It was submitted to the Congress on December 31, 1971. And it underscores why such a grant program is essential. In the section entitled "Specifics of a Program for the Future," the report stated that:

Local and State governments have the primary responsibilities . . . for the actions necessary to provide a quieter environment.

In the case of noise control, the future is now. We cannot afford to allow this problem to continue unabated. And if we are to come to grips with this problem, it means that we must supply all possible assistance to those with the primary responsibility for making this a more quiet and tranquil world.

My amendment would authorize the Administrator to make grants to States and other public entities to develop, establish, and conduct programs of noise control, prevention, and abatement, and to establish and conduct demonstration projects to develop and evaluate new techniques, approaches, and methods in the control, prevention, and abatement of noise. And it would authorize to be appropriated $5,000,000 for fiscal year

1973, and $10,000,000 for fiscal year 1974, for this purpose.

I urge the adoption of this amendment.

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

Mr. Chairman, I shall not take the full 5 minutes. I shall take but a moment because in my opinion the amendment is premature.

We are proposing to start a program of investigating and making research and then setting standards for the Nation and for the manufacturing of products.

Certainly, we do not want to put into this bill anything to tell the States that they can start saying that they are going into noise abatement control and other things.

What we are doing is simply making a start at the manufacturing end, that the new products which they manufacture in transportation, and so forth, will meet the standards established under the provisions of this bill.

We hope we can keep it in that simple fashion at the present time. Certainly, after a year or two, if this needs to be carried further, we can do it then.

So, Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RYAN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. COLLIER

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

The Clerk read as follows:

Amendment offered by Mr. COLLIER: Page 47, insert after line 12 the following:

"(c)(1) For the purpose of assuring that the public has adequate notice of and opportunity to present its views respecting the construction of a public airport or the construction or extension of a runway for such an airport, which has the effect of increasing noise levels in any community—

"(A) paragraph (1) of section 16(d) of the Airport and Airway Development Act of 1970 is amended by inserting '(A)' after 'certifies to the Secretary' and by inserting before the period at the end of such paragraph the following: '; and (B) that the public agency sponsoring such project published notice of each such public hearing not more than thirty days and not less than fifteen days before such hearing in a newspaper of general circulation in each community affected by such project, and further that the public agency sponsoring such project notify by registered mail the mayor or president of the towns, cities or villages contiguous to such airport of any proposed construction not less than sixty days before beginning any such construction as provided by regulations of the Secretary'; and

"(B) section 308 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new subsection:

"'PUBLIC HEARINGS

"'(c) No public airport (as defined in section 1(12) of the Airport and Airway Development Act of 1970) may be constructed and no runway for such an airport may be constructed or extended unless, prior to the commencement of such construction or extension, there has been afforded the public notice and an opportunity for the public hearings described in section 16(d)(1) of such Act.'

"(2) The table of contents of the Federal Aviation Act of 1958 is amended by inserting immediately above the item relating to section 309 the following:

"'(c) Public hearings.'"

Mr. COLLIER. Mr. Chairman, as is probably obvious from my previous remarks, I have had to wrestle with the problem of air jet noise as it affects the average citizen perhaps more over the years than any other Member of this body. I realize, however, that many of my colleagues with districts adjacent to busy commercial airports can appreciate the deep concern and the aggravation of their residents in this regard.

I am not seeking to make any major changes, and in fact I laud the committee for what I think is a sound and sensible approach to this problem, but I do think that my amendment would accomplish one thing: I think that, if nothing else, the residents in an area adjacent to an airport should be apprised of any construction that is likely to increase the impact of noise upon their everyday lives.

What my amendment does is to say that where any commercial airport installation engages in an expansion, an extension of runways, or anything that would basically change the impact of the noise on the people in the area, they should at least be entitled to advance notice that this construction is going to be taking place, through a public hearing where they would at least have their day in court.

This becomes essential because we have on two different occasions experienced situations in my area where construction was commenced with no knowledge on the part of the local officials, no knowledge on the part of the people living in the area. They subsequently engaged in litigation seeking to get an injunction, but they failed.

So this merely says that where an airport installation does expand, where they make changes, then have them give advance notice, 30 days before they commence work, and to notify the local officials so the people can at least come in, find out what is going to happen to them, and have their say in public hearings. That is all it does.

I hope that this body would see my amendment as a sensible amendment, and one that they could support. Thank you.

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

Mr. Chairman, I will say to the gentleman from Illinois, I respect his proposal very much. I enjoyed serving on the House Committee on Interstate and Foreign Commerce with him for a longer period of time. The gentleman was a very valuable and hardworking member of the committee. I know he does know the problems of these airports. He does an outstanding job for his constituents whom he is trying to protect.

But I would say, Mr. Chairman, that this is a noise control bill. I believe the proper place for this amendment is when we take up the airport construction bill again. This is an airport construction matter. So far as I know, in my part of the country, everybody is advised when a new airport is to start. I can recall one instance in which they notified all the people and the courthouse was filled. There was so much opposition at that time to an airport being constructed at a certain place that the FAA gave it up and said that they would not construct it there and that they would have to select a better place.

Well, when they came up with another place, another hearing was held in the courthouse and everybody had their say. There were a few who were opposed to it there, but the majority were for it.

Now I would say to the gentleman from Illinois that this committee when we have any other airport bill, certainly I would be very willing to put the gentleman's amendment on such a bill.

I do not think it should be put on this bill. I would be willing to say to him that this committee would give to the FAA now notice that this should be done until such time as we could put it in the proper bill and in the proper perspective.

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

Mr. STAGGERS. I yield to the gentleman.

Mr. COLLIER. Mr. Chairman, first let me say that my amendment does not direct itself to the construction of new airports. This is for reasons I am sure the gentleman and I could not only understand but agree on. So the instance the gentleman mentions would not be related to what this amendment is directed to, and that is to the expansion of an existing facility.

Secondly, if the distinguished chairman for whom I have great respect, would notify me at the time the airport act is up for amendment, I would certainly yield to his wisdom by withdrawing this amendment and offering it at that time, because I do think public hearings under the circumstances generally prevail where there is an expansion of airport activity. That is the right of the people who live in that area.

Mr. STAGGERS. I can assure the gentleman that when the bill comes up that he would be notified and I will certainly be in favor of his amendment to that bill.

Mr. COLLIER. I thank the gentleman and will ask to withdraw my amendment.

Mr. Chairman, I respectfully ask unanimous consent to withdraw my amendment.

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

There was no objection.

AMENDMENT OFFERED BY MR. RYAN

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

The Clerk read as follows:

Amendment offered by Mr. RYAN: Page 63, insert after line 11, the following:

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 17. In carrying out his functions under this Act, the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control established under section 402(a) of the Clean Air Act."

Page 31, in the table of contents, insert after the item relating to section 16 the following new item:

"Sec. 17. Office of Noise Abatement and Control."

The CHAIRMAN. The gentleman from New York (Mr. RYAN) is recognized in support of his amendment.

Mr. RYAN. Mr. Chairman, I have long believed that it is essential that there be a focal point for the Federal Government's noise pollution program. Prolif-

erating responsibilities throughout a vast Government bureaucracy almost inherently results in diminished focus—both in terms of the Government's ability to meet the problem and in terms of the public's ability to perceive the focus for its concerns, inquiries, and demands for action.

It was on the basis of this concept that Congress established the Office of Noise Abatement and Control by passage of the Clean Air Act Amendments of 1970—Public Law 91–604.

I believe that it is imperative that the Congress make clear its continuing desire that this Office be both maintained and strengthened as the core of the Federal assault on noise.

This should not be necessary, for one would be inclined to think the administration would undertake this action as a matter of course. But the history of this administration in regard to the Office of Noise Abatement and Control demonstrates its inclination to do quite the contrary.

Perhaps the most telling sign of this attitude is that the legislation introduced on behalf of the administration—H.R. 5275—would have specifically deleted the language in the Clean Air Act which directed the establishment of this office. Admittedly, one is hard-pressed to find this on a superficial reading of the bill, for the section—section 15 of H.R. 5275—which would have completely overturned the expressed will of Congress, was misleadingly entitled "Report of Noise Study." But this section, nonetheless, would have disregarded Congress mandate and eliminated the Office of Noise Abatement and Control.

I know that this matter was of great concern to the distinguished chairman of the Subcommittee on Public Health and Environment (Mr. ROGERS) and that he requested a positive statement from the administration that the office would be retained and utilized. Yet, Robert W. Fri, Deputy Administrator of the Environmental Protection Agency, in testifying at the subcommittee hearings on behalf of the administration, refused to state positively for the RECORD that under the administration's plans the Office of Noise Abatement and Control would continue to be a functioning reality.

The possibility that this Office would be abolished cannot be countenanced.

Commendably, the committee bill does not include the administration provision dismembering the Office. But neither does the bill direct the continued utilization of this Office as the heart of the Goverment's noise prevention, abatement and control program. And I fear that, now that the Office has completed those tasks mandated by title IV of the Clean Air Act Amendments of 1970, it will soon succumb to a silent death in the absence of further legislative history to the contrary.

I am sure that the committee does not intend to allow the Office of Noise Abatement and Control to fade away. Therefore, in order to clarify the situation and make clear the intent of Congress, I have proposed this amendment which provides that in carrying out his functions and responsibilities under the act, the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control.

The continuation and involvement of the Office of Noise Abatement and Control will not restrict the latitude of the Administrator in drawing upon the full resources of the Environmental Protection Agency in his efforts to combat the hazards of excessive and injurious noise.

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

Mr. RYAN. I am happy to yield to the distinguished gentleman from West Virginia.

Mr. STAGGERS. The Clean Air Amendments of 1970 established an Office of Noise Abatement and Control. That office is still in operation. In fact, it does not matter what Mr. Fri said. The EPA cannot abolish the office since its creation was by statute. Therefore, the amendment is completely unnecessary.

Mr. RYAN. Mr. Chairman, in view of the statement of the distinguished chairman that the amendment is not necessary and in view of his assurance that the Administrator shall utilize, to the fullest extent practicable, the Office of Noise Abatement and Control, the legislative history is absolutely clear. The amendment would now be superfluous. Therefore, I ask unanimous consent to withdraw the amendment.

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

There was no objection.

AMENDMENT OFFERED BY MR. BIAGGI

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

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: On page 47 following line 12 insert:

(3) (1) Beginning on the expiration of the three-year period beginning on the date of enactment of this Act, it shall be unlawful for any air carrier to operate an aircraft in air transportation which has not had a noise-suppression device installed.

(3) (2) Whoever violates the provisions of subsection (1) of this section shall be subject to a civil penalty of not to exceed $10,000. If such violation is a continuing violation, each day of such violation shall constitute a separate offense.

Mr. BIAGGI. Mr. Chairman, I rise to propose an amendment to require the installation of noise suppression devices on jet aircraft.

The provisions in this bill are too weak. They are designed solely to give the industry the time to retire all aircraft with excessively noisy engines. In the meantime, the people who live in the vicinity of airports and under flight path approaches to airports will continue to suffer near unbearable levels of noise.

Congress passed the Noise Abatement Control Act in 1968 authorizing the FAA to set noise limits and require the installation of jet noise suppressors on existing aircraft. In November of 1970—almost 2 years after receiving the authority—the FAA issued an announcement of proposed rulemaking to require installation of noise suppression devices on existing jets.

At the time, I lauded this action as a definite step forward in reducing noise pollution in metropolitan areas such as New York. Had the FAA continued on its plan of action at that time, a rule could have been formulated by now and citizens could have looked forward to less noise in a few years.

But no, the FAA buckled down under the pressure of the airlines industry and in the spring of this year announced an 18-month delay in the rulemaking procedure. I can only presume that this Agency intends to wait until such a rule is no longer needed.

The present bill would only grant authority once again to reduce jet noise—authority already granted in the 1968 bill. What we must set up is a deadline for the installation of jet noise suppressors. This is clearly necessary after almost 4 years of delay and procrastination by the FAA. My amendment would establish a 3-year deadline from the date of enactment.

Earlier this year Congress authorized $2.5 billion in loans to bail out corporations supposedly operating in the national interest. All it did was bail out the directors of these corporations and preserve annual dividends for the wealthy stockholders. My amendment would mean a little peace and quiet for Americans living near LaGuardia, JFK, as well as other jet airports throughout the Nation.

Mr. STAGGERS. Mr. Chairman, I rise to oppose the amendment. I do so very reluctantly because of my affection for the gentleman from New York. He is one of the finest gentleman in this House. The record which he has made is outstanding.

If we could do it and do it in a way that would be effective, we would certainly accept the amendment, but I believe I have to oppose it on the same ground on which we opposed the other amendments. It belongs in an airport safety bill. Also, if we put a noise abatement device on a plane, we may affect safety, and we have to give consideration first, certainly, to the safety of the traveling public. For that reason, I believe the amendment should be defeated. I hope the gentleman will bring this matter up at some time when we have an airport bill before the House, and at that time we can take care of it.

Mr. Chairman, I feel the Committee on Interstate and Foreign Commerce did an outstanding job in bringing this legislation to the House. I want to thank all members for the work they did on this bill and I want to thank the staff as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. BENNETT, Chairman of the Commit-

tee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes, pursuant to House Resolution 828, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

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

Mr. NELSEN. 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 356, nays 32, not voting 43, as follows:

[Roll No. 55]

YEAS—356

Abernethy	Casey, Tex.	Evins, Tenn.
Abourezk	Cederberg	Fascell
Abzug	Celler	Findley
Adams	Chamberlain	Flood
Addabbo	Chappell	Flowers
Alexander	Chisholm	Ford, Gerald R.
Anderson, Ill.	Clancy	Ford,
Annunzio	Clark	William D.
Archer	Clawson, Del	Forsythe
Ashley	Cleveland	Fountain
Aspin	Collier	Fraser
Aspinall	Collins, Ill.	Frelinghuysen
Badillo	Collins, Tex.	Frenzel
Baker	Conable	Frey
Barrett	Conte	Fulton
Begich	Conyers	Fuqua
Bell	Corman	Gallagher
Bennett	Cotter	Garmatz
Bergland	Coughlin	Gaydos
Betts	Culver	Gettys
Bevill	Curlin	Giaimo
Biaggi	Daniels, N.J.	Gibbons
Biester	Danielson	Goldwater
Bingham	Davis, Ga.	Gonzalez
Blackburn	Davis, S.C.	Goodling
Blanton	Davis, Wis.	Gray
Boggs	de la Garza	Green, Oreg.
Boland	Delaney	Green, Pa.
Bolling	Dellenback	Griffiths
Bow	Dellums	Grover
Brademas	Dent	Gubser
Brasco	Derwinski	Gude
Bray	Devine	Haley
Brinkley	Dickinson	Halpern
Brooks	Diggs	Hamilton
Broomfield	Dingell	Hanley
Brotzman	Donohue	Hanna
Brown, Mich.	Dow	Hansen, Idaho
Brown, Ohio	Downing	Hansen, Wash.
Broyhill, N.C.	Drinan	Harrington
Broyhill, Va.	Dulski	Harsha
Buchanan	Duncan	Harvey
Burke, Fla.	du Pont	Hathaway
Burke, Mass.	Eckhardt	Hawkins
Burlison, Mo.	Edmondson	Hays
Burton	Edwards, Ala.	Hechler, W. Va.
Byrne, Pa.	Edwards, Calif.	Heckler, Mass.
Byrnes, Wis.	Eilberg	Heinz
Byron	Erlenborn	Helstoski
Camp	Esch	Hicks, Mass.
Carney	Eshleman	Hicks, Wash.
Carter	Evans, Colo.	Hogan
Holifield	Monagan	Selberling
Horton	Montgomery	Shipley
Hosmer	Moorhead	Shoup
Howard	Morgan	Shriver
Hungate	Morse	Sikes
Hunt	Mosher	Sisk
Hutchinson	Moss	Skubitz
Jacobs	Murphy, Ill.	Slack
Jarman	Murphy, N.Y.	Smith, Iowa
Johnson, Calif.	Natcher	Smith, N.Y.
Johnson, Pa.	Nedzi	Snyder
Jones, Ala.	Nelsen	Spence
Jones, N.C.	Nix	Springer
Jones, Tenn.	Obey	Staggers
Kastenmeier	O'Hara	Stanton,
Kazen	O'Konski	J. William
Keating	Patman	Stanton,
Kee	Patten	James V.
Keith	Pelly	Steed
Kemp	Pepper	Steele
King	Perkins	Steiger, Ariz.
Kluczynski	Pettis	Steiger, Wis.
Koch	Peyser	Stokes
Kuykendall	Pickle	Stratton
Kyros	Pike	Stuckey
Latta	Pirnie	Sullivan
Lennon	Poage	Symington
Lent	Poff	Talcott
Link	Powell	Taylor
Lloyd	Preyer, N.C.	Teague, Calif.
Long, Md.	Price, Ill.	Terry
Lujan	Price, Tex.	Thompson, Ga.
McClory	Pucinski	Thompson, N.J.
McClure	Purcell	Thomson, Wis.
McCollister	Quie	Thone
McCormack	Quillen	Udall
McCulloch	Railsback	Ullman
McDade	Randall	Van Deerlin
McDonald,	Rangel	Vander Jagt
Mich.	Rees	Veysey
McEwen	Reid	Vigorito
McFall	Reuss	Waldie
McKay	Riegle	Wampler
McKevitt	Roberts	Ware
McKinney	Robinson, Va.	Whalen
McMillan	Robison, N.Y.	Whalley
Madden	Rodino	White
Mahon	Roe	Whitehurst
Mailliard	Rogers	Widnall
Mallary	Roncalio	Wiggins
Mann	Rooney, N.Y.	Williams
Martin	Rooney, Pa.	Wilson, Bob
Mathias, Calif.	Rosenthal	Wilson,
Matsunaga	Roush	Charles H.
Mayne	Roy	Winn
Mazzoli	Runnels	Wolff
Meeds	Ruppe	Wyatt
Melcher	Ruth	Wydler
Metcalfe	Ryan	Wylie
Mikva	St Germain	Wyman
Miller, Calif.	Sandman	Yates
Miller, Ohio	Sarbanes	Yatron
Mills, Ark.	Saylor	Young, Fla.
Minish	Scherle	Young, Tex.
Mink	Scheuer	Zablocki
Minshall	Schneebeli	Zion
Mitchell	Schwengel	Zwach
Mizell	Scott	
Mollohan	Sebelius	

NAYS—32

Abbitt	Hagan	Michel
Burleson, Tex.	Hall	Nichols
Cabell	Hammer-	Passman
Colmer	schmidt	Rarick
Crane	Henderson	Rousselot
Daniel, Va.	Hull	Satterfield
Dowdy	Ichord	Schmitz
Fisher	Jonas	Stephens
Flynt	Landrum	Teague, Tex.
Griffin	Long, La.	Waggonner
Gross	Mathis, Ga.	Whitten

NOT VOTING—43

Anderson,	Anderson,	Andrews
Calif.	Tenn.	Arends
Ashbrook	Fish	Mills, Md.
Baring	Foley	Myers
Belcher	Galifianakis	O'Neill
Blatnik	Grasso	Podell
Caffery	Hastings	Pryor, Ark.
Carey, N.Y.	Hébert	Rhodes
Clausen,	Hillis	Rostenkowski
Don H.	Karth	Roybal
Clay	Kyl	Smith, Calif.
Denholm	Landgrebe	Stubblefield
Dennis	Leggett	Tiernan
Dorn	McCloskey	Vanik
Dwyer	Macdonald,	Wright
Edwards, La.	Mass.	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Rhodes.

Mr. Anderson of California with Mr. Smith of California.

Mr. Carey of New York with Mr. Andrews.

Mr. O'Neill with Mr. Arends.

Mr. Clay with Mr. Podell.

Mr. Hébert with Mr. Myers.

Mr. Blatnik with Mr. Don H. Clausen.

Mr. Foley wtih Mr. Kyle.

Mrs. Grasso with Mrs. Dwyer.

Mr. Macdonald of Massachusetts with Mr. Hastings.

Mr. Pryor of Arkansas with Mr. Belcher.

Mr. Tiernan with Mr. Fish.

Mr. Stubblefield with Mr. Ashbrook.

Mr. Vanik with Mr. Landgrebe.

Mr. Galifianakis with Mr. McCloskey.

Mr. Caffery with Mr. Dennis.

Mr. Baring with Mr. Mills of Maryland.

Mr. Karth with Mr. Hillis.

Mr. Anderson of Tennessee with Mr. Denholm.

Mr. Dorn with Mr. Wright.

Mr. Roybal with Mr. Leggett.

Mr. LONG of Louisiana changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

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

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

There was no objection.

PERSONAL ANNOUNCEMENT

Mr. TIERNAN. Mr. Speaker, I ask to insert in the RECORD at this point an explanation for the fact that I missed the vote that has just been taken. I was called off the floor for consultation with another Member with regard to a matter affecting the House.

The SPEAKER. The gentleman's statement will appear in the RECORD.

FIRST BIENNIAL REPORT ON NATIONAL GROWTH—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency:

To the Congress of the United States:

I am pleased to present the first biennial Report on National Growth as required by Section 703(a) of the Housing and Urban Development Act of 1970.

This report was developed by the members and staff of the Domestic Council Committee on National Growth, under the Chairmanship of George Romney, Secretary of Housing and Urban Development. Their efforts are deeply appreciated.

RICHARD NIXON.

THE WHITE HOUSE, *February 29, 1972.*

APPOINTMENT AS MEMBERS OF SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES

The SPEAKER. Pursuant to the provisions of House Resolution 819, 92d Congress, the Chair appoints as members of the Special Committee To Investigate Campaign Expenditures the following Members of the House: Mr. O'NEILL, Massachusetts, chairman; Mr. SMITH of Iowa; Mr. LEGGETT, of California; Mr. DEVINE, of Ohio; and Mr. HARVEY, of Michigan.

PEOPLE AGAINST ANDERSON

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

Mr. WIGGINS. Mr. Speaker, last week the California Supreme Court decided the case of People against Anderson, which held that the death penalty imposed in that case was contrary to the California constitutional prohibition against "cruel or unusual punishment." Believing this case to be of interest to all Members, I ask unanimous consent to insert the full text of the opinion at this point in the RECORD.

[In the Supreme Court of the State of California, in Bank, Crim. 13617 (Superior Ct. No. CR 8039)]

THE PEOPLE, PLAINTIFF AND RESPONDENT, v. ROBERT PAGE ANDERSON, DEFENDANT AND APPELLANT

A jury found Robert Page Anderson guilty of first degree murder, the attempted murder of three men, and first degree robbery, and fixed the penalty at death for the murder. The judgment was affirmed. (People v. Anderson (1966) 64 Cal..2d 633.) Thereafter the remittitur was recalled and the judgment was reversed insofar as it related to the death penalty under the compulsion of Witherspoon v. Illinois (1968) 391 U.S. 510. (In re Anderson (1968) 69 Cal.2d 613.)

A second trial was had on the issue of the penalty for the murder, and the jury again imposed the death penalty. A motion for a new trial was denied, and this appeal is now before us automatically under subdivision (b) of Penal Code section 1239. See dissenting opinion.

Defendant contends that error was committed in selecting the jury, that certain evidence was improperly admitted, that the prosecutor was guilty of prejudicial misconduct, and that the death penalty constitutes both cruel and unusual punishment and, as such, contravenes the Eighth Amendment to the United States Constitution and article I, section 6, of the Constitution of California. We have concluded that capital punishment is both cruel and unusual as those terms are defined under article I, section 6, of the California Constitution, and that therefore death may not be exacted as punishment for crime in this state. Because we have determined that the California Constitution does not permit the continued application of capital punishment, we need not consider whether capital punishment may also be proscribed by the Eighth Amendment to the United States Constitution.[1]

THE CALIFORNIA CONSTITUTION

Before undertaking to examine the constitutionality of capital punishment in light of contemporary standards, it is instructive to note that article I, section 6, of the California Constitution,[2] unlike the Eighth Amendment to the United States Constitution,[3] prohibits the infliction of cruel or unusual punishments. Thus, the California Constitution prohibits imposition of the death penalty if, judged by contemporary standards, it is either cruel or has become an unusual punishment.

Some commentators have suggested that the reach of the Eighth Amendment and that of article I, section 6, are coextensive, and that the use of the disjunctive form in the latter is insignificant.[4] Our review of the history of the California provision persuades us, however, that the delegates to the Constitutional Convention of 1849, who first adopted the section which was later incorporated into the Constitution of 1879, were aware of the significance of the disjunctive form and that its use was purposeful.

The California prohibition of cruel or unusual punishment first appeared as part of the "Declaration of Rights" proposed by the Select Committee of the Constitutional Convention as article I of the Constitution to be drafted by the House of Delegates. When proposed on September 7, 1849, section V of article I declared: "Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel *and* unusual punishments be inflicted, nor shall witnesses be unreasonably detained."[5] (Italics added.) But for the addition of the "witness" clause, the proposed section was identical to the Eighth Amendment to the United States Constitution. The delegates were advised when the Declaration of Rights was first proposed that the first eight sections had been taken from the Constitution of New York and that all others were from the Constitution of Iowa.[6] On September 8, 1849, the convention resolved into a committee of the whole and adopted the fifth section without debate. Nor was there any debate on the section during the following month. On October 10, 1849, however, when the House of Delegates adopted the section it specified that cruel *or* unusual punishments were prohibited. The reporter of the debates stated only that "Article I of the constitution on the 'Declaration of Rights,' was taken up, read the third time, a few verbal errors corrected, and then passed."[7]

Article I, section 5, of the 1846 Constitution of New York, the first New York Constitution to include such a prohibition, proscribed cruel *and* unusual punishments.[8] The 1846 Iowa Constitution, after which many of the sections of the proposed Declaration of Rights were patterned, also proscribed cruel *and* unusual punishments.[9] Thus, it is apparent that the delegates did not make the change in order to correct a "verbal error" in transcribing the provision from the New York original, nor was it an attempt to conform it to the Iowa Constitution.

Although the delegates to the convention were limited in their access to models upon which to base the proposed California Constitution at the commencement of their deliberations,[10] by the end of the convention they had access to the constitutions of every state.[11]

At least 20 state constitutions were mentioned by delegates during the debates.[12] The majority of those which included declarations of rights or equivalent provisions differed from the New York, Iowa, and United States Constitutions and did not proscribe cruel *and* unusual punishments. Rather, they prohibited "cruel punishments,"[13] or "cruel or unusual punishments."[14] Several had provisions requiring that punishment be proportioned to the offense[15] and some had dual provisions prohibiting cruel and/or unusual punishments and disproportionate punishments.[16]

The fact that the majority of constitutional models to which the delegates had access prohibited cruel or unusual punishment, and that many of these models reflected a concern on the part of their drafters not only that cruel punishments be prohibited, but that disproportionate and unusual punishments also be independently proscribed, persuades us that the delegates modified the California provision before adoption to substitute the disjunctive "or" for the conjunctive "and" in order to establish their intent that both cruel punishments and unusual punishments[17] be outlawed in this state.[18] In reaching this conclusion we are mindful also of the well established rules governing judicial construction of constitutional provisions. We may not presume, as respondent would have us do, that the framers of the California Constitution chose the disjunctive form "haphazardly," nor may we assume that they intended that it be accorded any but its ordinary meaning. (Los Angeles Met. Transit Authority v. Public Util. Com. (1963) 59 Cal. 2d 863, 869; Lockhart v. Wolden (1941) 17 Cal. 2d 628, 631.)

The same rules of construction require that wherever possible we construe constitutional provisions in such a way as to reconcile potential conflict among provisions and give effect to each. (People v. Western Air Lines, Inc. (1954) 42 Cal.2d 621, 637). It has been suggested that we are therefore restrained from considering whether capital punishment is proscribed by article I, section 6, since the death penalty is expressly or impliedly recognized in several other provisions of the California Constitution.[19] We perceive no possible conflict or repugnance between those provisions and the cruel or unusual punishment clause of article I, section 6, however, for none of the incidental references to the death penalty purport to give its existence constitutional stature. They do no more than recognize its existence at the time of their adoption. Thus, the bail clause of article I, section 6, restricts the right to bail in capital cases; the due process clause of article I, section 13, ensures that life will not be taken without due process; and section 8 of article I allows felony defendants represented by counsel to plead guilty at an arraignment before a magistrate only in noncapital cases. Similarly, section 8 of article V gives the Governor power to reprieve and section 11 of article VI vests this court with appellate jurisdiction in cases in which the death penalty has been imposed. None of these provisions can be construed as an affirmative exemption of capital punishment from the compass of the cruel or unusual punishment clause of article I, section 6.

The provisions of sections 6 and 13 of article I which recognize the existence of capital punishment were carried over into the Constitution of 1879 from the Constitution of 1849. Section 8 of article I was added in 1879 in a modification which discarded the former requirement that the prosecution in capital and other infamous crimes proceed by indictment and permitted instead the use of an information.

The Governor's power to reprieve also originated in the 1849 Constitution as section 13 of article V. It became part of section 1 of article VII of the 1879 Constitution, and, in 1966 was incorporated into the present section 8 of article V. This court was given appellate jurisdiction of all felonies by the Constitution of 1849, and by the Constitution of 1879 as originally adopted, but in 1904 an amendment to section 4 of article VI transferred direct appellate jurisdiction in criminal cases other than those in which the death penalty had been imposed to the Courts of Appeal. The 1966 constitutional revisions shifted the amended provisions to the present section 11 of article VI. These 1966 constitutional revisions did not ratify the death penalty as a permissible means of punishment not governed by the cruel or unusual punishment clause of article I, section 6, for the revisions were merely part of a plan to modernize the Constitution of

Footnotes at end of article.

1879. They did no more than shift from one section to another provision recognizing the continued existence of the death penalty in the grant of powers to the judiciary and the executive department. Nothing in the legislative counsel's analysis, in the arguments for and against the revisions, or in the Secretary of State's official description of the ballot measure suggested to the voter that approval of Proposition 1–A in the election of November 8, 1966, would affirm the continuance of capital punishment.[20]

To interpret the adoption of Proposition 1–A or the presence in other provisions of the Constitution of references to capital punishment as intended to bar future judicial consideration of the possible cruel or unusual nature of capital punishment would violate the most elementary rules of constitutional construction. "We do not . . . approve of that principle of constitutional construction, which seeks by vague surmises, or even probable conjecture, or general speculation of a policy not distinctly expressed, to control the express language of the instrument; since such a mode would not unfrequently change the instrument from what its framers made it, into what the Judges think it should have been." (People v. Weller (1858) 11 Cal. 77, 86.) The Constitution expressly proscribes cruel or unusual punishments. It would be mere speculation and conjecture to ascribe to the framers an intent to exempt capital punishment from the compass of that provision solely because at a time when the death penalty was commonly accepted they provided elsewhere in the Constitution for special safeguards in its application.

THE JUDICIAL FUNCTION

Having determined that under the California Constitution capital punishment is prohibited if it is either a cruel or an unusual punishment, and that no constitutional impediment exists to restrain our examination of the death penalty in light of contemporary standards, we must also define the role of the courts in giving effect to the cruel or unusual punishments clause of article I, section 6.

Our duty to confront and resolve constitutional questions, regardless of their difficulty or magnitude, is at the very core of our judicial responsibility. It is a mandate of the most imperative nature. Called upon to decide whether the death penalty constitutes cruel or unusual punishment under the Constitution of this state, we face not merely a crucial and vexing issue but an awesome problem involving the lives of 104 persons under sentence of death in California, some for as long as 8 years. There can be no final disposition of the judicial proceedings in these cases unless and until this court has decided the state constitutional question, a question which cannot be avoided by deferring to any other court or to any other branch of government.

The cruel or unusual punishment clause of the California Constitution, like other provisions of the Declaration of Rights, operates to restrain legislative and executive action and to protect fundamental individual and minority rights against encroachment by the majority. It is the function of the court to examine legislative acts in light of such constitutional mandates to ensure that the promise of the Declaration of Rights is a reality to the individual. (Bixby v. Pierno (1971) 4 Cal. 3d 130, 141.) Were it otherwise, the Legislature would ever be the sole judge of the permissible means and extent of punishment and article I, section 6, of the Constitution would be superfluous.

Speaking of the Eighth Amendment to the United States Constitution, the United States Supreme Court declared: "While the State has the power to punish, the Amendment stands to assure that this right be exercised within the limits of civilized standards." (Trop v. Dulles (1968) 356 U.S. 86, 100.) The cruel or unusual punishment provision of the California Constitution serves an identical purpose. The Legislature is thus accorded the broadest discretion possible in enacting penal statutes and in specifying punishment for crime, but the final judgment as to whether the punishment it decrees exceeds constitutional limits is a judicial function. (Weems v. United States (1910) 217 U.S. 349, 379.)

Repondent, while conceding the power and responsibility of the court to review penal statutes in light of article I, section 6, urges that we must accept as controlling indicia of contemporary civilized standards of decency both legislative acts creating new capital crimes and legislative acquiescence in the continuation of capital punishment. Although we accord great deference to the judgment of the Legislature in this respect, we would abdicate our responsibility to examine independently the question were our inquiry to begin and end with the fact that statutory provisions authorizing imposition of the death penalty have been recently enacted or continue to exist. (People v. Lynch (1875) 51 Cal. 15, 25–26.)

THE PRIOR CALIFORNIA DECISIONS

Although we have often considered challenges to the constitutionality of capital punishment, we have heretofore approached the question in the Eighth Amendment context of "cruel and unusual" punishment, using that term interchangeably with the "cruel or unusual" language of article I, section 6, of the California Constitution,[21] and have never independently tested the death penalty against the disjunctive requirements of the latter. As a consequence of this emphasis on the Eighth Amendment approach the majority of our prior opinions have focused on justifications for continuation of the death penalty which were then believed to exempt it from the federal constitutional prohibition of cruel and unusual punishment without regard to whether it was cruel. This disregard of the cruelty question is understandable when it is realized that at times article I, section 6. was drafted in 1849,[22] and when it was readopted in 1879,[23] capital punishment was not considered so cruel as to warrant proscription, and was a widely accepted, customary punishment in the fledging state. Hanging had been a popular form of vigilante justice,[24] and even after the new state instituted a judicial and penal system, public executions continued.[25] Thus, at the time of our earliest decisions upholding capital punishment, a substantial proportion of California's residents had witnessed executions. It was not a remote or abstract concept, and the question as to whether capital punishment might violate standards of decency then accepted or shock the conscience of the people of that time did not often arise. When it did, the question could be summarily disposed of by a court which then understandably assumed that capital punishment was not so cruel as to be proscribed by the state or federal Constitutions. Since the cruelty of capital punishment was not then a substantial issue, any doubts as to the constitutionality of the death penalty were resolved by resorting to its continuing and usual acceptance. The emphasis of our prior opinions was thus placed on the common or usual rather than the "cruel" aspect of the punishment.

One J. W. Finley appears to have been the first defendant to challenge the death penalty in California on grounds that it violated article I, section 6 of the California Constitution. A life prisoner at Folsom, he had committed a malicious assault on another prisoner, an offense punishable by death. While awaiting trial he challenged the then applicable Penal Code section (Pen. Code, § 246; now Pen. Code, § 4500) on constitutional grounds. The Court of Appeal rejected his challenge, answering its own question "Is the punishment cruel or unusual," by justifying it as among the "severe penalties . . . necessary to deter men from defying law and daring the consequences." (In re Finley (1905) 1 Cal. App. 198, 201.) The *Finley* court adopted an "excessive" or "disproportionate" test by which to judge whether a punishment was "unusual" and concluded that "only when the punishment is out of all proportion to the offense, and is beyond question an *extraordinary penalty* for a crime of *ordinary gravity committed under ordinary circumstances*, that courts may denounce it as *unusual*." (1 Cal. App. 198, 202; italics in original.) The court, perhaps mindful of our decision in Ex Parte Mitchell, supra, 70 Cal. 1, in which we had used the disjunctive language of article I, section 6, did purport to separately consider whether the penalty was "cruel," but instead of examining that question independently, assumed that the death penalty could not be "cruel *per se*, for the whole current of law for centuries justifies the infliction." (*Ibid.*) Thus, California adopted the cruel *and* unusual punishment approach which has been followed by the United States Supreme Court, of finding justification for capital punishment in its deterrent effect, and weighing only whether it was an excessive or unusual punishment, without independent consideration of whether it is cruel.

When Finley appealed to this court after his conviction, he did not claim that the death penalty constituted cruel or unusual punishment. Instead, he challenged the imposition of the death penalty for malicious assault on equal protection grounds, claiming that there was no justification for imposing such a severe penalty on life prisoners when others who committed the same offense were treated more leniently. We rejected the equal protection claim on the dual ground that the distinction was reasonable because it was necessary to have a more severe punishment to deter life prisoners, and because since they were already serving life terms no greater punishment could be imposed except death. (People v. Finley (1908) 153 Cal. 59.)

Although Finley did not directly challenge the death penalty in this court on cruel and unusual punishment grounds, the approaches to its constitutionality taken by the Court of Appeal in the first *Finley* case and by this court in the second *Finley* case became firmly established in California law in 1909 when we rejected a second challenge to the infliction of the death penalty for aggravated assault by a life prisoner. Jacob Oppenheimer, a life prisoner at San Quentin, undeterred by the existence of the penalty, assaulted another prisoner in the prison dining room with a knife. He was convicted, the death penalty was imposed, and, on appeal to this court, he contended that then section 246 of the Penal Code was unconstitutional. Citing our prior *Finley* opinion, we noted that the validity of the section had been upheld against an equal protection challenge. But Oppenheimer had also claimed that the death penalty constituted cruel or unusual punishment. Although we recognized that "'cruel' or 'unusual'" punishment were barred by section 6 of article I of the California Constitution, we did not examine the possibility that capital punishment might be cruel. Instead we declared: "The infliction of the death penalty by any of the methods ordinarily adopted by civilized people, such as hanging, shooting, or electricity, is neither a cruel nor unusual punishment (see In re Kemmler, 136 U.S. 447) unless perhaps it be so disproportionate to the offense for which it is inflicted as to meet the disapproval and condemnation of the conscience and reason of men generally, 'as to shock the moral sense of the people.' [Citation.] In view of

Footnotes at end of article.

what is said in People v. Finley, as to the reasons for such provision . . . we are of the opinion that no such conclusion can be reached in regard to the statute under consideration." (People v. Oppenheimer (1909) 156 Cal. 733, 737–738.) By adopting what had originally been the basis for rejecting an equal protection challenge to the death penalty, we established justification, proportionment to the offense, and common practice among civilized peoples, as the tests by which to measure capital punishment against constitutional challenge, notwithstanding the alternative criteria of cruel *or* unusual punishments established by section 6, article I, of the California Constitution. Since the death penalty furthered a permissible purpose of punishment, was commonly practiced among civilized people, and was not disproportionate to the offense, it did not offend the Constitution.

The majority of challenges to the death penalty in this state since *Oppenheimer* have been rejected either without further exploration of the cruel or unusual punishment question, or by finding justification for continuance of capital punishment. (E.g., People v. Lazarus (1929) 207 Cal. 507, 514 ["It is not necessary to cite authorities for the purpose of showing that this contention has uniformly been held to be unmeritorious"]; In re Wells (1950) 35 Cal. 2d 889, 895 ["We are convinced that [*Oppenheimer*] was correctly decided. (See also In re Finley (1905) 1 Cal. App. 198, 203.)"]; People v. Bashor (1957) 48 Cal. 2d 763 [citing *Lazarus* and *Wells*].)

When justifications offered in support of continuance of the death penalty were more recently challenged, we continued to uphold it on the ground that it had long been practiced and its application upheld, without, however, independently reexamining the question of the cruelty of the punishment in the reality of present day conditions. (In re Anderson, supra, 69 Cal. 2d 613, 631.) Although our decision in *Anderson* turned largely upon the issue of lack of standards, and we did in that case comment upon the issue of cruel *and* unusual punishment, we examined the issue on the basis of the conjunctive cruel *and* unusual punishment. Thus our approach heretofore has paralleled that of the United States Supreme Court in rejecting challenges brought under the Eighth Amendment in finding justification for capital punishment and upholding it if it is not disproportionate to the offense. (See Goldberg and Dershowitz, *Declaring the Death Penalty Unconstitutional* (1970) 83 Harv. L. Rev. 1773, 1784–1798.)

Now, however, as the California constitutional history demonstrates, we must probe the issue on the basis of the disjunctive cruel *or* unusual punishment.

THE CONSTITUTIONALITY OF CAPITAL PUNISHMENT TODAY

Well over a century has now passed since the day when vigilante justice and public hangings made executions an accepted practice of California life. We cannot today assume, as it was assumed in early opinions of this court, that capital punishment is not so cruel as to offend contemporary standards of decency. Appellant has asked that we not only reexamine the validity of the prior bases upon which the death penalty has been upheld, but that we independently examine its cruelty applying contemporary standards. As we shall discuss at greater length below, we have done so and have concluded that capital punishment is "cruel" as that term is understood in its constitutional sense. We have also, at the instance of both appellant and respondent, reexamined the bases upon which capital punishment has been upheld heretofore. As will appear, we have concluded that the death penalty cannot be justified as furthering any of the accepted purposes of punishment. Moreover, we have concluded that it can no longer escape characterization as an "unusual" punishment.

1. The constitutional meaning of cruelty

Respondent contends that a punishment is constitutionally proscribed only if it is both unnecessarily cruel and is unusual. We have already concluded, however, that the California Constitution prohibits either cruel *or* unusual punishments, and have indicated that we believe capital punishment to be cruel in the constitutional sense. We have not had occasion heretofore to consider whether a cruel punishment can avoid the proscription of article I, section 6, upon a showing that it is "necessary." Before examining the validity of that proposition, we shall set forth our reasons for concluding that capital punishment is cruel in the constitutional sense.

It merits emphasis that in assessing the cruelty of capital punishment under article I, section 6, we are not concerned only with the "mere extinguishment of life," which the United States Supreme Court has suggested does not violate the Eighth Amendment (In re Kemmler (1890) 136 U.S. 436, 447), or with a particular method of execution (cf. Francis v. Resweber (1947) 329 U.S. 459, 463–464; In re Kemmler, supra, 136 U.S. 436, 444–449; People v. Daugherty (1953) 40 Cal. 2d 876, 894–896), but with the total impact of capital punishment, from the pronouncement of the judgment of death through the execution itself, both on the individual and on the society which sanctions its use. Our concern is that the execution which ultimately follows pronouncement of the death sentence has in fact become the "lingering death" which the Kemmler court conceded would be cruel in the constitutional sense. (In re Kemmler, supra, 136 U.S. 436, 447.)

We do not interpret the constitutional prohibition of cruel or unusual punishments either as a license for the indefinite continuance of all punishments known to the common law or practiced at the time California attained statehood, nor as a proscription of innovative types of punishment whose purpose is the rehabilitation or reformation of criminal offenders. Historical analysis suggests that the framers intended to outlaw both cruel punishments and punishments of excessive severity for ordinary offenses. They used the term cruel in its ordinary meaning—causing physical pain or mental anguish of an inhumane or torturous nature.

The framers of the California Constitution sought to restrict their fellow Californians' zeal for devising novel and torturous punishments.[26] Our first opinion construing article I, section 6, equated "cruel" with "barbarous." (State v. McCauley, supra, 15 Cal. 429, 455.) It has been suggested that the English Bill of Rights of 1689, which contained language identical to that of the Eighth Amendment,[27] and was the apparent precursor of similar provisions in most state constitutions, did not prohibit cruel, barbarous, or torturous punishments, but only excessive or illegal punishments.[28] It is clear, however, that in this country the phrase was understood to encompass the former and to prohibit both new forms of physical cruelty and existing punishments which courts might later hold to be cruel. Delegates to the various state conventions called to ratify the federal Constitution expressed concern that it contained no provision to ban "tortures, or cruel and barbarous punishments,"[29] or "cruel and unheard-of punishments."[30] At least one congressman, Samuel Livermore of New Hampshire, recognized that the proposed Bill of Rights might result in some existing punishments being outlawed. During the 1789 debates in the House of Representatives he questioned the cruel and unusual punishments clause on the ground that: "villains often deserve whipping, and perhaps even having their ears cut off; but are we in the future to be prevented from inflicting these punishments because they are cruel?"[31]

We are mindful, too, that article I, section 6, like the Eighth Amendment, is not a static document. Judgments of the nineteenth century as to what constitutes cruelty cannot bind us in considering this question any more than eighteenth century concepts limit application of the Eighth Amendment. The United States Supreme Court recognized that the Eighth Amendment might be interpreted progressively when it said in Weems v. United States, supra, 217 U.S. 349, 378, that: "The clause of the Constitution in the opinion of the learned commentators may be therefore progressive, and is not fastened to the obsolete, but may acquire meaning as public opinion becomes enlightened by a humane justice." And a plurality of the court implemented that suggestion in Trop v. Dulles, supra, 356 U.S. 86, 101, when it adopted as the measure of acceptable punishment under the Eighth Amendment "the evolving standards of decency that mark the progress of a maturing society." (See also, Robinson v. California (1962), 370 U.S. 660, 666.)

Were the standards of another age the constitutional measure of "cruelty" today, whipping, branding, pillorying, severing or nailing ears, and boring of the tongue, all of which were once practiced as forms of punishment in this country, might escape constitutional proscription, but none today would argue that they are not "cruel" punishments. Thus, although respondent argues that the standard of cruelty today is no different from what it was when article I, section 6, was adopted, our responsibility demands that we must construe that provision in accordance with contemporary standards. We have recognized before that our Constitution is a progressive document (People v. Western Air Lines, Inc., supra, 42 Cal. 2d 621, 635) and, in the context of article I, section 6, have accepted the *Trop* formulation of "evolving standards of decency that mark the progress of a maturing society" (People v. Clark (1970) 3 Cal. 3d 97, 99) as an appropriate expression of the applicable standard. In reality, however, we think the dispute as to the standard to be more apparent than real for the standard today is the standard of 1849 and 1879—whether the punishment affronts contemporary standards of decency. The framers of our Constitution, like those who drafted the Bill of Rights, anticipated that interpretation of the cruel or unusual punishments clause would not be static but that the clause would be applied consistently with the standards of the age in which the questioned punishment was sought to be inflicted.[32]

Respondent also contends, however, that capital punishment does not offend contemporary standards of decency. The People find evidence that it does not do so in public opinion polls, in the willingness of juries to impose the death penalty, and in the statutes of the 41 states which contain provisions for the punishment of death.[33] Public acceptance of capital punishment is a relevant but not controlling factor in assessing whether it is consonant with contemporary standards of decency.

But public acceptance cannot be measured by the existence of death penalty statutes or by the fact that some juries impose death on criminal defendants. Nor are public opinion polls about a process which is far removed from the experience of those responding helpful in determining whether capital punishment would be acceptable to an informed public were it even-handedly applied to a substantial proportion of the persons potentially subject to execution. Although death penalty statutes do remain on the books of many jurisdictions, and public opinion polls show opinion to be divided as to capital punishment as an abstract proposition, the infrequency of its actual application suggests that among those persons called upon to

Footnotes at end of table.

actually impose or carry out the death penalty it is being repudiated with ever increasing frequency. This repudiation has become so apparent that the National Crime Commission reported to the President that: "The most salient characteristic of capital punishment is that it is infrequently applied. . . . [A]ll available data indicate that judges, juries, and governors are becoming increasingly reluctant to impose, or authorize the carrying out of a death sentence. . . . In a few states in which the penalty exists on the statute books, there has not been an execution in decades." (President's Commission on Law Enforcement and Administration of Justice, Report (1967) (The Challenge of Crime in a Free Society) p. 143.)

What our society does in actuality belies what it says with regard to its acceptance of capital punishment. Between 1930 and 1968, a total of 3,859 persons were executed in the United States as punishment for crimes ranging from murder to burglary and aggravated assault.[34] The steady decrease in the number of executions from a high of 199 in 1935 to 2 in 1967,[35] in spite of a growing population and notwithstanding the statutory sanction of the death penalty, persuasively demonstrates that capital punishment is unacceptable to society today.

The cruelty of capital punishment lies not only in the execution itself and the pain incident thereto,[36] but also in the dehumanizing effects of the lengthy imprisonment prior to execution during which the judicial and administrative procedures essential to due process of law are carried out.[37] Penologists and medical experts agree that the process of carrying out a verdict of death is often so degrading and brutalizing to the human spirit as to constitute psychological torture.[38] Respondent concedes the fact of lengthy delays between the pronouncement of the judgment of death and the actual execution, but suggests that these delays are acceptable because they often occur at the instance of the condemned prisoner. We reject this suggestion. An appellant's insistence on receiving the benefits of appellate review of the judgment condemning him to death does not render the lengthy period of impending execution any less torturous or exempt such cruelty from constitutional proscription.

The brutalizing psychological effects of impending execution are a relevant consideration in our assessment of the cruelty of capital punishment. The United States Supreme Court recognized in Weems v. United States, supra, 217 U.S. 349 at 372, that "it must have come to [the framers of the Eighth Amendment] that there could be exercises of cruelty by laws other than those which inflicted bodily pain or mutilation." In Trop v. Dulles, supra, 356 U.S. 86, in which the United States Supreme Court squarely held a criminal punishment to be violative of the Eighth Amendment, the psychological impact of the punishment was dispositive. The court there held that denationalization as punishment was barred by the Eighth Amendment, stating in the plurality opinion: "There may be involved no physical mistreatment, no primitive torture. There is instead the total destruction of the individual's status in organized society. It is a form of punishment more primitive than torture, for it destroys for the individual the political existence that was centuries in the development. The punishment strips the citizen of his status in the national and international political community. His very existence is at the sufferance of the country in which he happens to find himself. . . . In short, the expatriate has lost the right to have rights.

"This punishment is offensive to the cardinal principles for which the Constitution stands. It subjects the individual to a fate of ever-increasing fear and distress. . . . It is no answer to suggest that all the disastrous consequences of this fate may not be brought to bear on a stateless person. The threat makes the punishment obnoxious." (356 U.S. at pp. 101–102.)

Although the court suggested in dictum that it believed the death penalty to be permissible then in certain circumstances, it also emphasized that: "The basic concept underlying the Eighth Amendment is nothing less than the dignity of man." (*Id.* at p. 100.) The dignity of man, the individual and the society as a whole, is today demeaned by our continued practice of capital punishment. Judged by contemporary standards of decency, capital punishment is impermissibly cruel. It is being increasingly rejected by society and is now almost wholly repudiated by those most familiar with its processes. Measured by the "evolving standards of decency that mark the progress of a maturing society," capital punishment is, therefore, cruel within the meaning of article I, section 6, of the California Constitution.

2. The unnecessary cruelty of capital punishment

The People concede that capital punishment is cruel to the individual involved. They argue, however, that only "unnecessary" cruelty is constitutionally proscribed, and that if a cruel punishment can be justified it is not forbidden by article I, section 6, of the California Constitution. We need not decide here whether our Constitution permits the infliction of "necessary" cruelty as punishment for crime, because respondent has not demonstrated that the death penalty can be justified as necessary to any state interest.

In seeking to justify continuance of capital punishment, the People argue that it furthers three of the four acknowledged purposes of punishment. Respondent concedes that death is in no way rehabilitative, but contends that capital punishment may be legitimately imposed in retribution for serious offenses, that it serves to isolate the offender, and that the existence of the death penalty acts as a deterrent to crime. None of these purposes is shown to justify so onerous a penalty as death.

Although vengeance or retribution has been acknowledged as a permissible purpose of punishment under the Eighth Amendment (Williams v. New York (1949) 337 U.S. 241, 248), we do not sanction punishment solely for retribution in California. (In re Estrada (1965) 63 Cal.2d 740, 745.) We are fully aware that many condemned prisoners have committed crimes of the utmost cruelty and depravity and that such persons are not entitled to the slightest sympathy from society in the administration of justice or otherwise. Nevertheless, it is incompatible with the dignity of an enlightened society to attempt to justify the taking of life for purposes of vengeance.

Admittedly, isolation of the offender from society is a proper and often necessary goal of punishment and death does effectively serve that purpose. Society can be protected from convicted criminals, however, by far less onerous means than execution. In no sense can capital punishment be justified as "necessary" to isolate the offender from society.

Respondent contends that the existence of the death penalty may deter some persons from committing capital offenses. We have recognized that whether a substantial deterrent effect can be proven is a vigorously disputed proposition. (People v. Love (1961) 56 Cal.2d 720, 731; People v. Ketchel (1963) 59 Cal.2d 503, 538–539.)[39] We are aware of the obvious imponderable and variable characteristics of society which can cause statistical studies of deterrence to be misleading, and of the difficulties inherent in attempting to establish that an offense was not committed because a would-be offender was aware of and restrained by the possibility of the death penalty. Nonetheless, as respondent concedes, many homicides in particular are not deterrable and as to the remainder capital punishment can have a significant deterrent effect only if the punishment is swiftly and certainly exacted. We have already demonstrated that the punishment is not swift. Moreover, it is far from certain.

In California death is authorized as the penalty for eight offenses: treason (Pen. Code, § 37), perjury in capital cases (Pen. Code, § 128), first degree murder (Pen. Code, § 190), kidnaping for ransom or robbery with bodily harm to the victim (Pen. Code, § 209), train wrecking (Pen. Code, § 219), malicious assault by life prisoner (Pen Code, § 4500), explosion of destructive devices causing great bodily injury (Pen. Code, § 12310), and sabotage resulting in death or great bodily injury (Mil. & Vet. Code, § 1672, subd. (a)). The penalty is mandatory for the treason and perjury offenses and for malicious assault by a life prisoner if a non-inmate victim dies. It is discretionary for the other listed offenses.

Notwithstanding the discretion given to judges and juries to impose either death or life imprisonment for first degree murder,[40] it is estimated that in California 80 percent of those persons convicted receive a sentence of life imprisonment.[41] Of the 20 percent upon whom a sentence of death is imposed, commutation of sentence, reversal of the judgment, and other factors[42] further reduce the number of defendants actually executed to the point where, far from being a certain penalty with acknowledged deterrent effect, capital punishment today is rarely imposed or implemented.

A punishment as extreme and as irrevocable as death cannot be predicated upon speculation as to what the deterrent effect might be if it were actually applied swiftly and with certainty upon all who were potentially subject to it. As stated previously, in reality today it is neither swift nor certain. Respondent offers us no basis upon which to conclude that, as presently administered, capital punishment is any greater deterrent to crime than are other available forms of punishment.

3. Capital punishment is an unusual punishment

We have already noted that the death sentence is rarely imposed in California today and that it is even more rarely carried out. But even adopting the broader test of widespread acceptance among civilized peoples, capital punishment can no longer withstand constitutional proscription. Respondent seeks to avoid this conclusion by suggesting that a punishment is not unusual in the constitutional sense unless it is unusual as to form, or method by which it is imposed. We cannot accept this limitation of the meaning of "unusual," however, for to do so would ignore the fact that execution is a form or method of punishment and would embroil us in future semantic disputes as to whether innovative types of punishment were unconstitutionally "unusual" forms of punishment.

In construing article I, section 6, we have held that an excessive or disproportionate punishment is "unusual." (People v. Oppenheimer, supra, 156 Cal. 733, 737–738.) When a punishment has been challenged as being unconstitutionally "cruel," however, the fact that it was not literally "unusual" has been considered relevant, not to whether the punishment should be proscribed as excessive, but to whether it was offensive to the standards of decency common to civilized peoples. (In re Finley, supra, 1 Cal. App. 198, 202.) Thus, when doubt existed as to whether a punishment was so cruel as to contravene article I, section 6, that doubt could be resolved in favor of upholding the

Footnotes at end of article.

punishment if it was commonly accepted among civilized societies not limited to our own.

We have concluded that capital punishment is unconstitutionally cruel and that under article I, section 6, a cruel punishment is proscribed irrespective of whether it is excessive. If any doubt remained as to its cruelty, however, we could no longer uphold capital punishment on the ground that it is commonly accepted, for the repudiation of the death penalty in this country is reflected in a world-wide trend towards abolition.

Not only have nine states, Puerto Rico and the Virgin Islands totally abolished capital punishment, but New Mexico, New York, North Dakota, Rhode Island and Vermont have limited its application to exceptional circumstances. Among those American jurisdictions which permit it at all, 14 have not conducted an execution since 1960, 19 have had none since 1961, 24 have had none since 1962, 30 have had none since 1963, and 35 have have none since 1964. In 1967 California and Colorado each executed one person. Prior to 1967 California had not had an execution since 1963 when one person was executed.[43] The increasingly unusual nature of capital punishment in the United States is readily apparent in the following chart:

TOTAL NUMBER OF EXECUTIONS IN THE UNITED STATES

1930	155
1935	199
1940	124
1945	117
1950	82
1955	76
1960	56
1961	42
1962	47
1963	21
1964	15
1965	7
1966	1
1967	2
1968	0
1969	0
1970	0
1971	0

The observation of the National Crime Commission that the infrequency of its application is the most salient characteristic of capital punishment in the United States is echoed in the report of the Secretary General of the United Nations on the world-wide status of capital punishment. "There is still a clear trend toward total abolition. Most countries are gradually restricting the number of offences for which the death penalty can be applied and a few have totally abolished capital offences even in wartime. Those countries retaining the death penalty report that in practice it is only exceptionally applied and frequently the persons condemned are later pardoned by executive authority. . . ." (United Nations, Economic and Social Council, Note by the Secretary General, Capital Punishment (E/4947) (February 23, 1971) p. 3.) Defendant has prepared the following table demonstrating the extent of de jure and de facto abolition of capital punishment in foreign jurisdictions: [44]

WORLDWIDE ABOLITION

Argentina	1922
Australia (Federal)	1945
New South Wales	1955
Queensland	1922
Tasmania	1968
Austria	1968
Belgium	1863
Bolivia	1961
Brazil	1946
Canada	1967
Columbia	1910
Costa Rica	1880
Denmark	1930
Dominican Republic	1924
Ecuador	1897
Finland	1949
Germany, West	1949
Greenland	1954
Honduras	1957
Iceland	1940
India:	
Travencore	1944
Israel	1954
Italy	1944
Lichtenstein	1798
Luxembourg	1821
Mexico (Federal)	1931
29 of 32 states	1931–70
Monaco	1962
Mozambique	1867
Nepal	1950
Netherlands	1886
Antilles	1957
New Zealand	1961
Nicaragua	1892
Norway	1905
Panama	1915
Portugal	1867
San Marino	1848
Surinam	1927
Sweden	1921
Switzerland	1942
United Kingdom:	
Great Britain	1965
Northern Ireland	1966
Uruguay	1907
Vatican City State	1969
Venezuela	1863

No longer can it be said that capital punishment is not "cruel *per se*, for the whole current of law for centuries justifies the infliction." (In re Finley, supra, 1 Cal. App. 198, 202.) Although world-wide acceptance of capital punishment at the turn of the century may then have warranted resolving doubts as to its cruelty in favor of its constitutionality, the current has now reversed. It is now, literally, an unusual punishment among civilized nations.

CONCLUSION

We have concluded that capital punishment is impermissibly cruel. It degrades and dehumanizes all who participate in its processes. It is unnecessary to any legitimate goal of the state and is incompatible with the dignity of man and the judicial process. Our conclusion that the death penalty may no longer be exacted in California consistently with article I, section 6, of our Constitution is not grounded in sympathy for those who would commit crimes of violence, but in concern for the society that diminishes itself whenever it takes the life of one of its members. Lord Chancelloir Gardiner reminded the House of Lords, debating abolition of capital punishment in England: "When we abolished the punishment for treason that you should be hanged, and then cut down while still alive, and then disembowelled while still alive, and then quartered, we did not abolish that punishment because we sympathised with traitors, but because we took the view that it was a punishment no longer consistent with our self respect." (268 Hansard, Parliamentary Debates (5th Series) (Lords, 43d Parl., First Sess., 1964–1965) (1965) p. 703.)

Insofar as Penal Code sections 190 and 190.1 purport to authorize the imposition of the death penalty, they are, accordingly, unconstitutional. In view of our decision that the death penalty may not be carried out, it is unnecessary to reach petitioner's other contentions relating to the validity of the penalty judgment.

The judgment, insofar as it provides for the penalty of death, is modified to provide as punishment of life imprisonment and as so modified is affirmed in all other respects.[45]

C. J. WRIGHT.

We concur:

PETERS, J.
TOBRINER, J.
MOSK, J.
BURKE, J.
SULLIVAN, J.

FOOTNOTES

[1] We note that this issue is presently before the United States Supreme Court. (Aikens, Jr. v. California, No. 68–5027; Furman v. Georgia, No. 69–5003; Jackson, Jr. v. Georgia, No. 69–5030.)

[2] Article I, section 6: "All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; *nor shall cruel or unusual punishments be inflicted.* Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned." (Italics added.)

[3] United States Constitution, Amendment VIII: "Excessive bail shall not be required, nor excessive fines imposed, *nor cruel and unusual punishments inflicted.*" (Italics added.)

[4] Comment, *The Death Penalty Cases* (1968) 56 Cal.L.Rev. 1268, 1326, footnote 502. But see, Mosk, *The Eighth Amendment Rediscovered* (1968) 1 Loyola L.A.L.Rev. 4, 17–18.

[5] Browne, Debates in the Convention of California (1850) page 30 (hereinafter "1849 Debates").

[6] *Id.* page 31.

[7] *Id.* page 458.

[8] 5 Thorpe, American Charters, Constitutions, and Organic Laws (1909) page 2654 (hereinafter "Thorpe").

[9] 2 Thorpe, page 1125.

[10] W. M. Gwin, formerly a congressman from Mississippi, who reputedly came to California in order to become a senator from the new state, was named a delegate to the convention and arrived prepared with copies of the Iowa Constitution which he distributed among the delegates. (Browne, 1849 Debates, p. 24.)

[11] *Id.* page 221.

[12] *Id.* pages 37, 56, 69, 110, 380, 384.

[13] E.g., Pennsylvania Constitution of 1838, article IX, section 13 (5 Thorpe, p. 3114); Alabama Constitution of 1819, article I, section 16 (1 Thorpe, p. 98); Delaware Constitution of 1831, article I, section 11 (1 Thorpe, p. 583); Kentucky Constitution of 1799, article X, section 15 (3 Thorpe, p. 1290); Mississippi Constitution of 1832, article I, section 16 (4 Thorpe, p. 2050); Rhode Island Constitution of 1842, article I, section 8 (6 Thorpe, p. 3223); South Carolina Constitution of 1790, article IX, section 4 (6 Thorpe, p. 3264).

[14] E.g., North Carolina Constitution of 1776, paragraph X (5 Thorpe, p. 2788); Florida Constitution of 1838, article I, section 12 (2 Thorpe, p. 665); Massachusetts Constitution of 1780, article XXVII of Declaration of Rights (3 Thorpe, p. 1892); New Hampshire Constitution of 1792, Part First, article XXIII (4 Thorpe, p. 2474).

[15] E.g., Arkansas Constitution of 1836, article II, section 13: "That all penalties shall be reasonable and proportioned to the nature of the offence." (1 Thorpe, p. 270); Illinois Constitution of 1848, article XIII, section 14: "All penalties shall be proportioned to the nature of the offence; the true design of all punishment being to reform, not to exterminate mankind." (2 Thorpe, p. 1008); New Hampshire Constitution of 1792, Part First, article XVIII (4 Thorpe, p. 2473).

[16] E.g., Indiana Constitution of 1816, article I, section 15 (cruel and unusual punishment)

and section 16 ("All penalties shall be proportioned to the nature of the offense") (2 Thorpe, p. 1059); Maine Constitution of 1819, article I, section 9 ("shall be proportioned to the offence . . . nor cruel nor unusual punishments inflicted") (3 Thorpe, pp. 1647–1648); Rhode Island Constitution of 1842, article I, section 8 ("nor cruel punishments inflicted" and "all punishments ought to be proportioned to the offence") (6 Thorpe, p. 3223).

[17] The delegates to the constitutional convention of 1849 had reason to be concerned with outlawing punishments which, although apparently accepted as necessary and not unduly cruel, were unusual. The absence of any effective government at the time of the discovery of gold and consequent proliferation of mining camps, had resulted in the administration of justice, such as it was, in the camps by vigilante committees. (3 Hittell, History of California (1898) p. 272 and *passim* [hereinafter Hittell].) Lacking means other than direct administration of physical punishment by which to enforce their judgments, the miners developed a variety of punishments which can only be described as "unusual" even in that day. Hittell described the punishment imposed upon a thief who had been sentenced to be hanged, but whose punishment was modified when death was thought to be too severe. "[U]pon the suggestion of a milder punishment, it was determined that the culprit should receive a hundred lashes on his bare back and have his ears cut off and his head shaved so that he might everywhere be recognized in the mining districts as a felon." (*Id.* p. 273.) Public flogging followed by banishment from the district was a common punishment. Even under the Mexican Governors, unusual punishments had been devised to deter lawlessness. In 1824 Governor Arguello, having determined that the "usual punishments" had been ineffective, decreed that theft of property valued at over 200 reals, burglary, and housebreaking were to be punished by death and that if murder had occurred during the commission of those offenses, the body should be quartered. Theft of property worth from 10 to 50 reals was to be punished by condemning the perpetrator to 10 years at public labor. Between 50 and 200 reals, the 10 years' labor was to be accompanied by "six public floggings or run the gauntlet of two hundred men armed with heavy switches six times." (2 Hittell, p. 79.)

[18] We find no indication in the Debates and Proceedings of the Constitutional Convention of 1878–1879 that the delegates to that convention intended any change in the meaning of the section. To the contrary, it appears from one debate on the question of amending the section to expressly provide that whipping was not cruel or unusual punishment, that the delegates were concerned that cruel punishments such as whipping not be reintroduced irrespective of whether whipping had existed at common law, had been reinstituted in England, and still survived in other states. The delegates were concerned with its cruel nature and not with the question of whether it was an "unusual" punishment. (Willis and Stockton, Debates and Proceedings (1880) pp. 244–245 [hereninafter "1879 Debates"].)

One delegate, noting that whipping was permitted in Delaware, and possibly in Kentucky and Virginia, suggested that their constitutions were substantially similar, and if the reason it was permitted there but had been declared unconstitutional by one California appellate court was that California's Constitution included the word "unusual," "then it is a sufficient answer to say that if it is to become fashionable, let it become fashionable elsewhere first, and the objection that it is unusual will cease to apply to our Courts." (1879 Debates, p. 246.) At the time the Kentucky and Delaware Constitutions prohibited only "cruel" punishments, although the Virginia Constitution prohibited "cruel and unusual punishments. It is apparent that the delegates recognized the distinctions between the constitutions and considered the terms of the California Constitution to be disjunctive.

[19] Article I, section 6: "All persons shall be bailable by sufficient sureties, unless for capital offenses . . ."; article I, section 8: ". . . If the felony charged is not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offense charged therein [and] the defendant may . . . plead guilty to the offense . . ."; article I, section 13: ". . . No person shall . . . be deprived of life . . . without due process of law; . . ."; article V, section 8: ". . . the Governor, on conditions he deems proper, may grant a reprieve, . . ."; article VI, section 11: "The Supreme Court has appellate jurisdiction when judgment of death has been pronounced."

[20] The official description of Proposition 1–A advised: "Legislative Constitutional Amendment. Repeals, amends, and revises various provisions of Constitution relating to separation of powers, and to the legislative, executive, and judicial departments; provides for annual general legislative sessions; provides compensation of members of Legislature shall be prescribed by statute passed by two-thirds vote, and limits rate of annual future adjustments; Legislature must enact law as prohibiting members from engaging in conflicting activities. Signature necessary on petition for initiative statute reduced from 8% to 5%; eliminates initiatives to Legislature. Legislature shall provide for succession to the office of Governor in event of disability or vacancy." (Jordan, Proposed Amendments to Constitution, Propositions and Proposed Laws Together with Arguments To Be Submitted to the Electors of the State of California at the General Election Tuesday, Nov. 8, 1966 (1966) p. 1.)

[21] The constitutionality of a particular mode of punishment appears to have been first considered by this court in State v. McCauley (1860) 15 Cal. 429, in which it was sought to enforce the defendant's contractual obligation tc pay for the lease of prison labor. He sought to avoid payment on various grounds, among them on the asserted ground that the act authorizing the lease was void. Rejecting that argument, the court stated: "The only limitation [on the Legislature's power to fix punishments for crime] is the inhibition against the infliction of cruel *and* unusual punishments, which are held to mean those of a barbarous character, and unknown to the common law." (15 Cal. at p. 455; italics added.) In Ex Parte Mitchell (1886) 70 Cal. 1, however, we upheld a two-year prison term and $4,000 fine for assault with a deadly weapon, stating it was "not excessive, cruel or unusual within the meaning of section 6, article I, of the Constitution." (70 Cal. at p. 2.)

[22] On September 11, 1849, L. W. Hastings, an attorney delegate from the Sacramento District, introduced the following resolution: "As the true design of all punishment is to reform and not to exterminate mankind, death shall never be inflicted as a punishment for crime in this state."

The reported recorded the debate: "Mr. McCarver seconded the resolution [to ban capital punishment] not because he believed the House would adopt it, or that it could be adopted here, but because he considered the question entitled to a fair consideration. If the [sponsor] would devise a plan by which criminals could be properly punished in this country, he would go with him; but as California is situated at present, it is impracticable. The construction of penitentiaries would be enormously burdensome. . . . As to the right to take human life, it is very questionable whether we have that right; but as it has been a practice ever since the world was created, perhaps it would be as well to let it rest a while longer. It may be that it is a good old principle established by the experience of ages. He would vote against the resolution, not because he was opposed to it, but because he considered it impracticable to accomplish the object under existing circumstances." (1849 Debates, pp. 45–46.)

[23] In 1879, opinion among the delegates was still mixed. See footnote 18, supra. One delegate opposing a resolution which would have expressly declared whipping to be acceptable, suggested that hanging was so cruel as to be permitted only under a "strained construction" of what is now article I, section 6. He stated: "I hold that under the operation or under a strict construction of that provision of the Constitution—'nor shall cruel or unusual punishment be inflicted'—I hold that no man can be hanged, because who will assert that to take a man and drag him up and let him choke to death is not cruel? We all know that it is cruel. There can be nothing more cruel conceived by the mind of man. It is torture the most horrible. And yet it is done. But it is done under a strained construction of that provision, . . ." (1879 Debates, p. 244.)

Mr. Blackmer, of San Diego County, questioned: "It is stated here that we have a right to take life under the law, and it is admitted on all hands that it is a cruel punishment. I want to ask the gentleman if it deters from the crime of murder. Does the fact that we have the right and that that law is carried out in many instances, deter people from committing that crime of murder? Not at all." (*Id.* p. 245.) Not all delegates agreed, however, that the death penalty was cruel.

[24] 3 Hittell, supra, pages 274, 277–278.

[25] Public executions were not abolished until 1858. (Stats. 1858, p. 192, § 1. Now Pen. Code, § 3603.)

[26] See footnotes 17 and 18, supra.

[27] 1 Schwartz, The Bill of Rights: A Documentary History (1971) 41–43 (hereinafter "Schwartz").

[28] Granucci, *"Nor Cruel and Unusual Punishments Inflicted:" The Original Meaning* (1969) 57 Cal. L. Rev. 839.

[29] Patrick Henry in the Virginia Ratifying Convention, 1788, in 2 Schwartz, supra, at page 799. "What has distinguished our ancestors?—That they would not admit of tortures, or cruel and barbarous punishment. But Congress may introduce the practice of the civil law, in preference to that of the common law. They may introduce the practice of . . . torturing, to extort a confession of the crime. . . . We are then lost and undone."

[30] Massachusetts Convention Debates, 1788, in 2 Schwartz, supra, at pages 690–691. "They are nowhere restrained from inventing the most cruel and unheard-of punishments, and annexing them to crimes; and there is no constitutional check on them, but that racks and gibbets may be amongst the most mild instruments of their discipline."

[31] 2 Schwartz, supra, pages 1053, 1112.

[32] See footnote 18, supra.

[33] Alaska, Hawaii, Iowa, Maine, Michigan, Minnesota, Oregon, West Virginia, and Wisconsin have abolished capital punishment. United States Department of Justice, Bureau of Prisons, National Prisoner Statistics, Bulletin No. 45 (August 1969) *Capital Punishment 1930–1968* page 30 (hereinafter "NPS Bulletin").

[34] NPS Bulletin, supra, p. 7.

[35] *Ibid.*

[36] See, Comment, *The Dealth Penalty Cases,* 56 Cal. L. Rev. 1268, 1341, supra; Hearings on Senate Bill 1760 before the Senate Committee on the Judiciary (1970) p. 21.

[37] The median elapsed time prisoners now awaiting execution in California had been imprisoned as of the end of 1968 was 20.7 months. The national median elapsed time was then 33.3 months. The California figures do not take into account prisoners who were awaiting execution at that time but who have since had their sentences commuted, judgments reversed, or have been removed from death row for other reasons. As of December 31, 1968, the median elapsed time condemned prisoners then on death row had been awaiting execution was 23.7 months. (NPS Bulletin, supra, page 27.) There were a total of 104 persons under sentence of death in California as of December 31, 1971. Of these, two prisoners have been on death row since 1964, five since 1965, and seven since 1966. Eight were received there in 1967, fifteen in 1968, and thirteen in 1969. Thirty-four were received in 1970 and the remaining twenty in 1971.

[38] See e.g., Hearings on Senate Bill 1, before the California Senate Committee on the Judiciary (1960) page 9; Hearings on Senate Bill 1760, before the Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary (1970) pages 21, 125; Siferstein, *Crime and Punishment* (1968) 1 The Center Magazine No. 284.

[39] See, e.g., European Commission on Crime Problems, Council of Europe, The Death Penalty in European Countries (1962) pages 45–46; Massachusetts Special Commission Established for the Purpose of Investigating and Studying the Abolition of the Death Penalty in Capital Cases, House Report No. 2575 (1958) at page 44; Ohio Legislative Service Commission, Capital Punishment, Staff Report No. 46 (1961) at pages 43–47; Royal Commission on Capital Punishment, Report (1953) paragraph 65, at page 23; Subcommittee of the Judiciary Committee on Capital Punishment, Problems of the Death Penalty and its Administration in California, 20 Assembly Interim Committee Report No. 3 (1955–1957) at pages 27–30; Bedau, The Question of Deterrence, The Death Penalty in America (H. Bedau ed. 1964 [hereinafter "Bedau"]) pages 264–265; Graves, *The Deterrent Effect of Capital Punishment in California,* in Bedau, supra, at page 322; Savitz, *The Deterrent Effect of Capital Punishment in Philadelphia,* in Bedau, supra, at page 315; Schuessler, *The Deterrent Influence of the Death Penalty* (1952) 284 Annals 54, 62; Sellin, *Homicides in Retentionist and Abolitionist States,* in Capital Punishment 135 (T. Sellin ed. 1967 [hereinafter "Sellin"]).

[40] The death penalty may not be imposed on persons who were under 18 years of age at the time of the offense., (Pen. Code § 190.1.)

[41] McGee, *Capital Punishment as Seen by a Correctional Administrator* (1964) 28 Fed. Prob. (No. 2) 11, 12. In 1967 there were 83 first degree murder convictions in California and 17 death sentences. (State of Cal., Dept. of Justice, Div. of Law Enforcement, Bureau of Criminal Statistics Report (Crime and Delinquency in California 1967) (1968) p. 140; NPS Bulletin (1967).) During 1969 there were 87 first degree murder convictions and 8 death sentences. (DLE/BCS Report (1970) p. 121.) The ratio of death sentences to first degree murder convictions does not adequately reflect the uncertainty of imposition of capital punishment, however. This uncertainty is better exemplified by the rarity of the death sentence in California in relation to the total number of willful homicides. In 1969 California experienced a record 1,376 wilful homicides. (Cal. Dept. of Justice, Div. of Criminal Investigation and Information, Bureau of Criminal Statistics (Crime & Delinquency in California 1970) (1971) p. 5.) In 1970 there were 1,359 wilful homicides. (*Ibid.*) There were 1,790 arrests in 1969 and 1,807 arrests in 1970 for all categories of homicide. (State of Cal., Dept. of Justice, Div. of Law Enforcement, Bureau of Criminal Statistics (Crime & Arrests— reference tables 1970) p. 5.) Yet, in all of 1969, 1970 and 1971 a total of only 67 persons were sentenced to death.

[42] Death from natural causes, suicide, and insanity (Pen. Code, § 3704). During the period 1965–1971, 60 percent or 66 death penalty appeals resulted in reversals of the entire judgment or of the penalty. In addition, 19 extraordinary writs were granted setting aside the penalty or the entire conviction and requiring new trials or further proceedings for each defendant.

[43] NPS Bulletin, supra, pages 8–9.

[44] Sources for this table are: United Nations, Secretary-General's Note supra; Ancel, The Death Penalty in European Countries (Council of Europe, European Committee on Crime Problems, 1962); Joyce, Capital Punishment: A World View (1961); University of Coimbra, Faculty of Law, Pena do Morte (1967); Patrick, *The Status of Capital Punishment: A World Perspective* (1965) 56 J. Crim. L.C. & P.S. 397, 405. Included among the abolitionist jurisdictions are nine which retained capital punishment for certain extraordinary civil offenses (Canada, Israel, Nepal, New Zealand, the United Kingdom, and the Australian jurisdictions); eight which permit it under military law or in wartime (Brazil, Denmark, Finland, Italy, Netherlands, Norway, Sweden, and Switzerland), of whom two executed Nazi collaborators after the Second World War (Netherlands and Norway). Belgium executed one soldier in 1918.

The dates shown are those of de jure abolition except for Lichtenstein, Luxembourg, Nicaragua, and Surinam, in which the date represents that of the last execution and the beginning of de facto abolition, with the exception of Luxembourg which had one later execution.

The Canadian statute abolishing capital punishment for murder expires five years from the date of its enactment if not renewed.

[45] Inasmuch as today's decision is fully retroactive, any prisoner now under a sentence of death, the judgment as to which is final, may file a petition for writ of habeas corpus in the superior court inviting that court to modify its judgment accordingly. Petitions should be filed in the court of territorial jurisdiction in the first instance, and transferred by that court to the sentencing court in the event the court with territorial jurisdiction was not the sentencing court.

[People v. Anderson, Crim. 13617]

DISSENTING OPINION BY M'COMB, J.

I do not concur in this court's judgment, but would affirm the ruling of the trial court, for these reason:

First: The question here involved is now pending before the Supreme Court of the United States, whose decision will be binding upon this court. Therefore, I would not pass upon the merits of the contentions discussed in the foregoing opinion until the decision of the Supreme Court of the United States has been rendered.

Second: In my opinion, the death penalty is constitutional, as held by this court in a long line of cases, including the following decisions handed down within the past three and a half years: People v. St. Martin, 1 Cal.3d 524, 538–539 (19, 20); In re Hill, 71 Cal.2d 997, 1020 [11]; People v. Williams, 71 Cal.2d 614, 634 [23]; People v. Pike, 71 Cal.2d 595, 604 [8]; People v. Quicke, 71 Cal.2d 502, 523 [20]; People v. Mabry, 71 Cal.2d 430, 444 [15]; People v. Vaughn, 71 Cal.2d 406, 418 [5]; People v. Nye, 71 Cal.2d 356, 377 [20]; In re Arguello, 71 Cal.2d 13, 16; People v. Hill, 70 Cal.2d 678, 700–701; In re Anderson, 69 Cal.2d 613, 629–632.)[1]

Third: Further, the death penalty serves a useful purpose as a deterrent of crimes which result in the death of innocent victims and should therefore not be abolished.[2] An article entitled "A Wistful Goodbye to Capital Punishment" by Donald Atwell Zoll, Professor of Political Science at Arizona State University, published in the December 3, 1971, issue of *National Review* at pages 1351–1354, convincingly states the reasons it would be wise to retain the death penalty.[3]

Fourth: Subject to constitutional limitations, the Legislature has the power to prescribe punishment for crime. (People v. Bauer, 1 Cal.3d 368, 375 (7); In re Anderson, supra, 69 Cal.2d 613, 630–631 [8].) As hereinabove indicated, it is my opinion that the death penalty is constitutional, as determined by this court in innumerable cases. Therefore, since it is the duty of the Legislature or the electorate, and not the judiciary, to decide whether it is sound public policy to empower the imposing of the death penalty, it is my opinion that if a change is to be made, it should be effected through the legislative process or by the people through the initiative process. (See In re Anderson, supra, 69 Cal.2d 613, 616, 632 [10]; People v. Tanner, 3 Cal.2d 279, 298.)

McCOMB, J.

FOOTNOTES

[1] In my opinion, the fact that for thousands of years death has been accepted as a proper punishment for the most serious criminal offenses indicates that it is neither a cruel punishment (when effected by means such as those used in this state) nor an unusual punishment.

In the Holy Bible, it is stated: "Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man." (Genesis, ch. 9, v. 6.) The foregoing quotation shows that the death penalty has long been regarded by us and our predecessors as an appropriate punishment for a person who commits murder.

[2] The Honorable B. Rey Schauer, Justice of the Supreme Court of California, has said: "That the ever present potentiality in California of the death penalty, for murder in the commission of armed robbery, each year saves the lives of scores, if not hundreds of victims of such crimes, cannot I think, reasonably be doubted by any judge who has had substantial experience at the trial court level with the handling of such persons. I know that during my own trial court experience, which although not extensive in criminal law, included some four to five years (1930–1934) in a department of the superior court exclusively engaged in handling felony cases, I repeatedly heard from the lips of robbers—some amateurs (no prior convictions), some professionals (with priors)—substantially the same story: 'I used a toy gun [or a simulated gun or a gun in which the firing pin or hammer had been extracted or damaged] because I didn't want my neck stretched! (The penalty, at the time referred to, was hanging; death by lethal gas was substituted in 1941.)'" (People v. Love, 56 Cal.2d 720, 739, at p. 744 (fns. omitted).)

[3] As aptly pointed out by Professor Zoll in the conclusion of his article: "Capital punishment ought not to be abolished solely because it is substantially repulsive, if infinitely less repulsive than the acts which invoke it. Yet the mounting zeal for its abolition seems to arise from a sentimentalized hyperfastidiousness that seeks to expunge from the society all that appears harsh and suppressive. If we are to preserve the humane society we will have to retain sufficient strength of character and will to do the unpleasant in order that tranquility and civility may rule comprehensively. It seems very likely that capital punishment is a . . . necessary, if limited factor in that maintenance of social tranquility and ought to be retained on this ground. To do otherwise is to indulge in the luxury of permitting a sense of false delicacy to reign over the necessity of social survival."

VETERANS DAY AND MEMORIAL DAY

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

Mr. QUILLEN. Mr. Speaker, I am today introducing a bill to restore tradition and patriotic significance to Veterans Day and Memorial Day by changing the dates of observance back to November 11 and May 30, respectively. Several Members have joined me in cosponsoring this legislation and I invite others to introduce companion measures.

Mr. Speaker, in 1968 the Congress enacted Public Law 90–363 which, among other things, changed the dates for observance of Veterans Day from November 11 to the fourth Monday in October and Memorial Day from May 30 to the last Monday in May.

The new dates for these patriotic holidays became effective last year for the first time and reports received from all across the Nation indicated widespread opposition to the change. This was evidenced by the lack of participation by many in the various programs and ceremonies. For several days following Veterans Day the CONGRESSIONAL RECORD was replete with information to this effect, along with appeals of various Members that the traditional dates be restored.

We have now had a year of experience with this so-called Monday holiday law and an opportunity to evaluate it. As a result, I am concerned over the wisdom of having changed the dates for observing these patriotic holidays merely to establish long holiday weekends. From my own observation, information I have received and letters from my constituents, I am led to believe that the Congress participated in a legislative distortion of history and in the process our Nation's heritage was diminished in an effort to accommodate our economic system.

The patriotic meaning of November 11 and May 30 has deteriorated into weekend jamborees devoted to pleasure and profit. Emphasis is placed on weekend trips to favorite resorts, to holiday promotions, merchandise sales, and almost everything imaginable except our flag and our faith in America. Efforts are now underway to develop new promotional activities to further commercialize these patriotic holidays.

Veterans Day and Memorial Day have, or should have, a significant meaning to most Americans. In past years in thousands of communities across the Nation our citizens gathered within their communities on these patriotic holidays to participate in ceremonies of remembrance and to offer prayers of thanks for those who have served our Nation. This is a part of our living heritage as Americans. Last year in many communities our people continued to hold Veterans Day services on November 11 notwithstanding the change in the law. The feeling was that the change in date was merely for economic reasons and was without real meaning. October 25, 1971, was observed for the most part by Government employees and some schools. In many instances employees of business and industry did not receive a day off or a 3-day holiday. Thus the commercial aspect replaced the real meaning of the occasion.

According to statistics two of our most widely observed holidays have been Memorial Day and Veterans Day. Public Law 90–363 require each of them now to be observed on Monday.

I believe it is important that our history and our heritage be kept alive and meaningful. If there is no regard for historical fact, for tradition and for national heritage, we become hypocritical when we endeavor to impress the importance of these virtues upon our young people.

The overriding reason for the establishment of Memorial Day on May 30 and Veterans Day on November 11 was to commemorate those living and dead who have contributed to our Nation's greatness.

There is widespread support to restore the dates for observing Memorial Day and Veterans Day to the dates that were in effect prior to the enactment of Public Law 90–363. For this reason I am today introducing legislation which would accomplish that purpose. I believe the Congress should respond to the desires of our veterans and our patriotic citizens and organizations. I extend an invitation to my colleagues to join with me in sponsoring this measure and I earnestly hope that this body will give this legislation the consideration it deserves.

A BUSINESSMAN'S HONOR CODE

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

Mr. FLYNT. Mr. Speaker, the December issue of the Talon, the cadet magazine of the U.S. Air Force Academy, contained an article written by a parent and addressed to his cadet son. The author's very meaningful analysis of the Air Force Academy Honor Code demonstrates how firmly American society is rooted in the concepts of honesty and integrity. Yet, the article reminds each of us of our individual responsibility in making trust not simply a principle but a working practice. The thoughtful counsel contained in this letter has significance for all of us, and I place this article in the RECORD at this point:

The other day I was thinking about the Honor Code. If I recall, it is about like this: "We will not cheat, lie nor steal nor tolerate among us those who do." I am sure it is not too difficult to subscribe to and follow without hesitation nor question the first part of the code. There is no doubt that our civilization has established that cheating, lying and stealing are unacceptable, dishonorable behaviors—we have even established jails to put in people who do.

Any person who is reasonably intelligent also knows that the greatest punishment for violation of the code is not that imposed by society, but rather the burden of living with the memory of one's misdeeds. The memory of the dishonorable act, the memory that can never be erased, is by far worse than any punishment imposed by your peers.

So the knowledge that cheating, lying, and stealing are abnormal behaviors and that the memory of such behavior, enduring for eternity, is a terrible price to pay, makes the first part of the code easy to accept and adhere to. Do you agree?

So, we get to the second half. And that my friend is another matter. Here it says we are obliged to "rat" on a fellow Cadet, our roommate, or even our best friend if we have knowledge of the fact he is violating the first part of the code.

A person could cite a number of justifications for this: You could say, for example, that wrong is wrong and the matter of degree doesn't matter. If you knew a man had committed murder, you would turn him in without hesitation for the protection of your friends and yourself. So, why not do the same for minor crimes. Is the degree of crime important? If it is, where is the dividing line between important and less important, a major and a minor crime? And, who is going to be the judge?

Within the code itself a person might like to make a distinction. I can see a Cadet saying: "Sure, I would turn in a squadron member for stealing, but for lying and cheating . . . who is he hurting but himself?"

Now the question is more difficult, isn't it? The answer is not as obvious as some of the earlier ones. But, if you can find the answer you will be just as comfortable with it as with the answers to the easier questions. The difference is not in the application of the answers, but rather in finding the answers. Once you have the answer, living by the answer that was hard to find takes no more effort than living by the one that was readily at hand.

OK. So let's get into it. I'm not sure I can follow my own thoughts rationally and in good order; but, I'll try.

If you think in terms of trying to live in a society where cheating and lying were common practices, it might help our understanding. Can you imagine not being able to trust the words or actions of any of your associates. Integrity and responsibility would be words with no meaning. You couldn't depend on the pizza parlor to deliver the pizza you order on the telephone; you would have to pay cash for all your purchases (not a bad idea in a way; but credit cards are convenient such as my gas credit card when you are home); your best friend could steal your girl and consider that to be rational behavior. And so on. It is hard to imagine.

Many of the conveniences and pleasures we enjoy today are due in some part to a viable business climate. It moves fast, decisions are rapid, the productivity of executives is enormous. I cannot visualize doing business in a climate where written and witnessed documents were a necessity for every minor agreement. It is not uncommon for me to accept an order from a customer involving many thousands of dollars solely on the basis of a one minute telephone call. "Do you want a confirming order", the caller may ask. "No, save the time. If your word isn't any good, neither is your paper."

There are millions of stockholders in this country who can call their broker any morning and order him to buy or to sell any quantity of stock, and solely on the strength of their word the deed is done. It is understood between them that if it is a sale, the brokerage house will credit the stockholder's account and if it is a purchase, the buyer will put a check in the mail. Trading of stocks is a useful function in our economy; without mutual trust it would grind to a halt.

"Now, Dad," you might say, "are you trying to tell me that all business men and all stockholders are angels? And, even if they aren't, you don't go around squealing on them." Well, Son, you are right on the first count. They are not all angels. But you are wrong on the second count; we do squeal on them.

Did you ever hear of the Retail Credit Bureau? Every citizen who uses charge accounts is catalogued and a record of credit

reliability is maintained. If I want to open a new charge account the store can call the Retail Credit Bureau and find out in a minute what kind of experience other stores have had with me. The Bureau is financed by the stores themselves. It makes sense. A cheat is a cheat is a cheat. Why find it out three different times in three different stores if by exchanging information you can limit the loss to only one store. And, it might also be said, that if the stores could not limit their losses to cheats, then their prices to everybody, good guys included, would have to be higher. I applaud their squealing. It saves me money.

Of course, you could say, these people are not ratting on someone they know personally. As a matter of fact, they never saw the person on whom they are blowing the whistle. He is just a faceless name. But, is that germane to the question; does that really make a difference? If you had an acquaintance who you discovered to be lying, cheating, or stealing, wouldn't your attitude toward him change; wouldn't you mentally if not physically, withdraw from him? How could you have a satisfactory relationship with such a person? So, once he is discovered, what difference does it make whether you know him or do not.

The business world is a world of constant battle for economic survival. It is a game of education, of wits, of ingenuity, of experience, of inventiveness, of astuteness.

Each and every worker is striving for food, shelter and clothing for himself and his family, or for better food, better shelter and better clothing. Any threat to his job is a threat to his capacity to provide these essentials of life and where something as basic as hunger is involved, man will fight or to put it in milder terms and more in the context of this letter, he will try to remove obstacles to his goals.

If he does not know it at the outset, experience teaches him that lying, cheating, and stealing on the part of others are one kind of obstacle to his goals. Furthermore, he also learns that such behavior follows patterns and it is repetitive. In order to avoid the unpleasantness of frontal encounters, he is always alert to the appearance of identifying patterns and he circumvents the encounter—he doesn't associate with the person, he doesn't hire the candidate, or he chooses to not do business with the potential customer. Thus he adroitly avoids the problem.

Hopefully, in your case, the screening of tens of thousands of applicants and thousands of nominees down to 1,400 appointees has largely handled the avoidance technique.

But what do we do about the ones we couldn't avoid—we didn't identify the pattern, or we were inexperienced, for we were asleep. We squeal! You're darn right we do! And loud! We alert our friends. We literally say to our friends, "I wouldn't do business with that man. I've learned you can't trust him."

A few paragraphs ago I tried to establish the point that the fast pace of business depends on mutual trust among businessmen and that we all are beneficiaries of this business pace. Therefore an untrustworthy person impedes the progress. He is a threat to my capacity to provide the food, clothing and shelter, and to that of my friends, and I therefore expose him without a single qualm of conscience and it is only the recall of my christian belief in charity towards all that keeps me from being downright happy about my act.

Let me cite two actual cases:

1. A salesman was cheating on his expense account; you could also call this stealing. I fired him. He applied for a job with one of my customers. The customer asked me questions. I told him the facts. The customer hired the salesman anyway, but, being warned, he could defend himself.

Did I hear you ask why I fired him, why I didn't just warn him to not do it again. First of all, because it was a reasonable assumption he had been stealing from me other times as well. I just happened to catch him this time, and, frankly, I was mad. That was money right out of my pocket. Secondly, he had irreparably damaged his integrity and, as I've said twice already, I can work only with those I can trust.

2. A certain purchasing agent lied to me about a competitive situation. He said he could buy a competitor's product for less than he could. I met the alleged competitive price and in so doing, dropped $100,000 from my gross income on that product over a period of a year.

How did I know he lied? That's another story, but accept the fact that I knew. Of course, I didn't know it at the time or I wouldn't have met the price. I found it out later and when my company was poorer. Did I tell others? I sure did. I told my own people and I told my competitors. Do I need to tell you why again? We don't do business with that purchasing agent anymore.

So, my son, exposing liars, cheaters, and stealers is a common way of life in the business world. It is a necessary way of life to our business system and a positive contributor to the results of that system which we all enjoy. Successful businessmen follow the Air Force Honor Code to the letter and do so, not because someone said they should, but only because they know it must be that way if they are to achieve their goals.

Let's take one more example, this time a hypothetical one from your future life:

You are third officer on an air mission. You know the second officer is responsible for verification of a piece of equipment vital to the mission, but you know he did not perform the check. You ask him. He lies to you.

You know if the mission aborts you will lose crew and plane not to mention the failure of the mission. You also know if you tell the first officer what you know, the second officer's future is doomed. What do you do? Obvious answer, isn't it? But you must act by instinct, you don't have time to think about it. That is why learning now to live by the code is so necessary.

The only thing unique about you and the Honor Code is that you are having to learn it at a young age, much younger, at least, than I did. But I can see that only in a positive light. Why put off such an important piece learning. I wish I had acquired it sooner.

When I think about it, perhaps the most surprising thing is that the Honor Code is not taught and enforced in all colleges. It should be. What a gift it would be to students.

(Name withheld by request.)

ACTION NOW FOR OLDER AMERICANS

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

Mr. BRADEMAS. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues legislation of major significance to the older population of our country and to those who will soon join their ranks.

Mr. Speaker, let me note that the total population of middle-aged and older persons combined came in 1970 to 61.8 million, or 31.5 percent of all Americans, almost a third.

Almost 100 years ago, in 1890, of a total population of almost 40 million, only 1.2 million, or 2.9 percent, were 65 or over. In 1970 the proportion of the 203.2 million residents of the United States in this age range had reached 9.9 percent. The number of older persons in this country had increased to 20 million.

When we consider also the middle-aged population, those between the ages of 45 and 64, which rose from 4.6 million, or 11.6 percent, to 41.8 million, or 20.6 percent, we can see that nearly a hundred years of growth have produced a total population five times as large, a middle-aged population nine times as large, and an older population an unprecedented 17 times as large.

Mr. Speaker, we cannot afford either to neglect the problems of this growing proportion of our population or to fail to utilize their skills and abilities.

We must also recognize and respond to the fact that 4.7 million Americans over 65 live in households below the poverty line. The income and service needs of this group must be met.

In addition, we must recognize that many individuals reaching this age are healthier and can expect to live longer than in the past and want to make their own contributions to society.

WHITE HOUSE CONFERENCE ON AGING

Only a few months ago, over 3,000 delegates attended the 1971 White House Conference on Aging here in Washington, D.C. These delegates, representing every State in the Union, presented us with a challenging action plan.

The recommendations that emerged from the conference ranged across such areas as more adequate income; better health care; more job recruitment; training, counseling, and placement services for older workers; more educational opportunities; increased transportation services; improved nutritional services; and improved visibility and attention to the problems of the elderly at all levels of Government.

OLDER AMERICANS ACT AMENDMENTS OF 1972

As chairman of the Select Subcommittee on Education, which has jurisdiction over the Older Americans Act of 1965 as amended, I have followed the activities of this conference with keen interest.

Indeed, during the past year the Select Education Subcommittee conducted a series of hearings across the country in an attempt to better appreciate the needs of older Americans. As a result of these hearings, on December 2, 1971, I introduced H.R. 12017, a bill to strengthen and improve the Older Americans Act of 1965. It is, Mr. Speaker, this measure that I wish now to describe.

OBJECTIVES

Mr. Speaker, the objectives of these amendments to the Older Americans Act are to:

Make available to older people comprehensive programs which include a full range of health, educational, and social services;

Provide for priority attention to older people with special needs;

Furnish meaningful employment opportunities for many individuals, including older persons, young persons, and volunteers from the community; and

Insure that the planning and operation of programs will be undertaken as a partnership of community groups and State and local governments, with appropriate assistance from the Federal Government.

GRANTS TO STATES FOR COMMUNITY PROGRAMS

H.R. 12017 extends the authorizations of the grant programs in the Older Americans Act, which expires in June of this year. The bill provides authorization for appropriations of $150 million for fiscal year 1973, $200 million for fiscal year 1974, and $250 million for fiscal year 1975 for grants to the States for community programs. Present law authorizes appropriations of only $30 million for fiscal year 1972.

Projects funded under this program have been designed to fill gaps at the community level where such services are needed but are not being provided for the elderly. One of the most important types of activities funded under this program is the multipurpose senior center, which provides a variety of services such as recreational and socialization programs, information and referral, counseling, employment referral, education, transportation, and volunteer opportunities from a central facility.

Other programs supported have included homemaker services, home delivered meals, specialized short-term training for persons working in programs for older people, and community planning and development on behalf of the elderly to promote and coordinate services for the aging provided by other established agencies.

AREAWIDE MODEL PROJECTS

H.R. 12017 also authorizes appropriation of such sums as may be necessary for fiscal years 1973 through 1975 for areawide model projects. Present law authorizes appropriations of $10 million for fiscal year 1972. The 1969 amendments to the Older Americans Act established this program to provide for the development and operation of statewide, regional, metropolitan, or other areawide model projects.

RETIRED SENIOR VOLUNTEER—(RSVP)—AND FOSTER GRANDPARENT PROGRAM

The bill also authorizes appropriations of such sums as may be necessary for fiscal years 1973 through 1975 for both the retired senior volunteer program and the foster grandparent program. Present law provides authorizations of appropriations of $5 million in fiscal year 1972 for the RSVP program and $25 million for the foster grandparent program. These two programs, which were transferred from the Administration on Aging to the new Action agency last year, have been extremely successful examples of how much older Americans can contribute to the communities in which they live.

The foster grandparent program has provided low-income elderly men and women with the opportunity to work closely and directly with children in institutions who are deprived of their parents and families. The retired senior volunteer program was established by the 1969 amendments. The volunteers serve in courts, schools, libraries, day-care centers, hospitals, nursing homes, Boy Scout offices, economic development agencies and other community service centers.

RESEARCH, DEMONSTRATION, AND TRAINING PROJECTS

Such sums as may be necessary for fiscal years 1973 through 1975 are authorized by the bill for research, demonstration and training projects. Present law provides for authorization of appropriations of $20 million for fiscal year 1972.

Title IV of the act provides for grants for research on patterns and conditions of living of older people, for demonstration and development of new approaches and programs for meeting the needs of older people, and for achieving or improving coordination of community services.

Title V authorizes grants for training professional, technical, and lay personnel, to plan for and serve older people in programs related to the broad purposes of the act.

STATUS OF COMMISSIONER ON AGING

Section 4 of H.R. 12017 provides that the Commissioner on Aging would be directly responsible to the Secretary, who would be prohibited from delegating any of the functions of the Commissioner to any other officer who is not directly responsible to him.

At present, the Commissioner reports to the Administrator of the Social and Rehabilitation Service, who is responsible also for the welfare, medicaid, vocational rehabilitation and juvenile delinquency programs of the Department. Under present laws, the title IV research and demonstration program is administered by the Commissioner and the Associate Administrator of SRS. The title VI, foster grandparent and retired senior volunteer programs are no longer administered by AOA at all but have been transferred to the new Action agency.

Mr. Speaker, I am concerned about these moves, which have tended to lower the relative status of the Commissioner on Aging within the organizational structure of the Department and have taken away much of his operational authority. Let me therefore recall that in 1965, when the measure creating the Administration on Aging was brought to the floor of the House, the chairman of the Select Subcommittee, the Honorable JOHN DENT, explained:

> The major point at issue was the creation of an operating agency within HEW, headed by a Commissioner, as opposed to the continued vestige of authority in HEW, under the Commissioner of Welfare . . . It must be recognized that there are many facets of Federal and State programming and local activities which are not in the welfare context and which cannot respond well to leadership which generates basically from the concept that public welfare is the central coordinating point around which these activities should be conducted. I submit that attention to the aging is one of these facets, and one that should be completely divorced from the welfare concept.

COORDINATION

In an attempt to promote better coordination among the many Federal programs which have impact on the lives of older Americans, section 4 of H.R. 12017 requires Federal agencies proposing programs related to the purposes of the Older Americans Act to consult with the Administration on Aging prior to the establishment of such programs, and Federal agencies administering such programs must cooperate with AOA in carrying them out.

INFORMATION AND RESOURCE CENTER

In another effort to improve coordination and communication in the field of aging, the bill provides for the establishment, within AOA, of a National Information and Resource Center for the Aging. The Center would collect, review, organize, publish, and disseminate information and data related to the particular problems caused by aging, including information describing measures which are or may be employed for meeting or overcoming such problems. Each department or agency of the Federal Government would be authorized to make available to the Secretary, for use by the Center, any information or data which the Secretary requested. To the maximum extent feasible, the Secretary would enter into arrangements whereby State and other public and private agencies and institutions would make useful information and data available to the Center. The bill authorizes appropriations for this purpose of such sums as may be necessary for fiscal years 1973 through 1975. All too often the elderly find it impossible to find answers to their every day practical problems. The Center would serve as a clearinghouse to disseminate those answers.

CONSTRUCTION

Section 5 of this bill provides that construction costs could be approved under the program of grants to the States for community programs if such construction is needed to provide adequate services for the elderly and if rental, remodeling, or leasing of adequate facilities is not practicable.

GERONTOLOGICAL RESEARCH CENTER

Section 6 of the bill establishes an independent agency, the Gerontological Research Center, to develop a coordinated national program for research on the biological aspects of aging. The Center would be located within the Department of Health, Education, and Welfare for administrative purposes only. A board composed of two biological scientists, one behavioral scientist, one administrator and one physician would head the Center.

This board would carry out the following duties in relation to the biological aspects of aging:

Collection, analysis, interpretation, and evaluation of information and statistical data;

Appraisal of programs and activities;

Development of priorities for new programs designed to increase knowledge;

Development of legislative reports and

proposals for new programs to provide greater insight into the area, and

Conduct research.

PRERETIREMENT PROGRAMS

Section 7 of H.R. 12017 amends title V of the Older Americans Act to authorize the Secretary to develop and operate—in cooperation with any public or nonprofit private agency, organization, or institution—preretirement programs providing education, information, and relevant services to persons planning retirement. The Secretary would be authorized to collect and disseminate, through publications and other appropriate means, information concerning research, studies, findings, and other materials developed in connection with preretirement programs.

The Secretary could make grants and contracts for the evaluation of preretirement programs, the training of personnel to carry out such programs, and the conduct of research with respect to the development and operation of such programs.

As individuals retire earlier and live longer in retirement, a program of education for the new period of life they are entering becomes more and more important. This program, together with the program of continuing education which I will discuss later, should do much to help middle aged and older people develop the resources and skills they need to get the most out of their years of retirement.

SPECIAL IMPACT PROGRAMS

Mr. Speaker, section 8 adds a new and exciting title VII to the Older Americans Act. Title VII authorizes what can be called special impact programs such as service roles in retirement, nutritional services, construction of multipurpose senior centers, transportation services, and continuing education for older persons.

1. SERVICE ROLES

The service roles in retirement program would complement the already existing foster grandparent and retired volunteer programs. Under this program the Secretary could make grants or contracts to pay not more than 90 percent of the cost of the development and operation of programs designed to provide opportunities for persons aged 60 or over to render public service. Such sums as may be necessary are authorized to be appropriated for fiscal years 1973 through 1975.

2. NUTRITIONAL SERVICES

The nutritional services for older Americans program is similar to the Nutrition for the Elderly Act which, in somewhat different terms, has already passed both Houses of Congress this year. I am hopeful that by the time H.R. 12017 is acted on in committee the nutritional program contained in S. 1163 will already have become law.

3. MULTIPURPOSE SENIOR CENTERS

As I mentioned earlier, senior centers have been among the most successful of the programs funded under the Older Americans Act. H.R. 12017 authorizes for fiscal years 1973 through 1975 appropriation of such sums as may be necessary for grants to pay not more than 75 percent of the cost of construction of multipurpose senior centers. The total of such grants in any State for any fiscal year would not exceed 10 percent of the total amount appropriated for the fiscal year. In making grants, the Secretary would give preference to the construction of multipurpose senior centers in areas covered by approved comprehensive city programs assisted under the provisions of the Demonstration Cities and Metropolitan Development Act of 1966.

MORTGAGE INSURANCE

The Secretary could also insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation. An individual mortgage could not involve a principal obligation of more than $250,000. A multipurpose senior center insurance fund would be used by the Secretary as a revolving fund for carrying out all the insurance provisions. Appropriations of such sums as may be necessary are authorized to provide initial capital for the fund, and to assure the soundness of the fund thereafter.

4. TRANSPORTATION

Transportation is increasingly a concern of older people. Over one-third of 200,000 older people who responded to a questionnaire sent out in connection with the White House Conference on Aging indicated travel problems. A fifth cited lack of adequate transportation. Another fifth cited "no car" as a problem. Lack of money for bus fare was noted by 13 percent while 11.4 percent said they had difficulty in getting on and off public transportation.

Provision of social services without the necessary transportation to reach these services negates their value to the older person. This bill would authorize the Secretary, after an appropriate investigation and study, to develop and carry out a program to improve the transportation services available to older persons. Such programs could provide:

Special transportation subsystems for older persons or similar groups with similar mobility restrictions.

Portal-to-portal service and demand actuated services.

The payment of subsidies to transportation systems to enable them to provide transportation services to older persons on a reduced rate basis.

Payments directly to older persons to enable them to obtain reasonable and necessary transportation services.

Any other program which the Secretary determines shows promise of facilitating the provision of transportation services to older persons.

To carry out this transportation program, appropriations of such sums as may be necessary are authorized for fiscal years 1973 through 1975.

5. CONTINUING EDUCATION

As I mentioned earlier, the bill also provides a program of continuing education for older persons.

The Secretary is authorized, after appropriate investigation and study, to develop and carry out such a program. This could include programs:

To provide rehabilitation for older persons to enable them to lead more productive lives;

To retain persons who are shifting to new employment by reasons of age or other conditions;

To upgrade the skills of older persons to enable them to obtain more rewarding employment; and

To broaden the educational, cultural, or social awareness of older persons so that they will be better able to lead more productive and rewarding lives in retirement.

The Secretary would conduct this program through grants or contracts with public and private agencies, local educational agencies, vocational educational agencies and the vocational rehabilitation agencies of the States. Appropriations of such sums as may be necessary are authorized for fiscal years 1973 through 1975.

HEARINGS

Mr. Speaker, the Select Education Subcommittee of the Committee on Education and Labor will begin several weeks of hearings on this and related bills on Wednesday, March 1. Mr. Speaker, I hope very much that there we can take prompt action on this legislation so that the programs it authorizes can be into action now for the benefit of the older people of our country.

Let me then conclude with some words of an old friend of mine, whom I once had the honor to serve for nearly a year, the late Adlai E. Stevenson.

Said Mr. Stevenson:

What a man knows at 50 that he did not know at 20 is, for the most part, incommunicable. The knowledge that he has acquired with age is not the knowledge of formulas or forms or words, but of people, places, action—a knowledge not gained by words but by touch, sight, sound victories, failures, sleeplessness, devotion, love—the experiences and emotions of this earth and one's self and of other men and perhaps, too, a little faith and a little reverence for the things you cannot see.

The kind of knowledge, the kind of faith, the kind of reverence which characterizes the older people of our society is much too scarce and much too precious in this great and wealthy Nation to be either wasted or perhaps worse, ignored.

Mr. Speaker, the time has come—the time is now—for a genuine commitment—not of words but of deeds—to lifting the quality of life of the older citizens of the United States.

THE AMERICAN LEGION

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. TEAGUE) is recognized for 60 minutes.

Mr. TEAGUE of Texas. Mr. Speaker, I am pleased to join with my other colleagues in the House to extend special greetings to American Legion National Comdr. John H. Geiger, the president of the Legion's Auxiliary Mrs. Robert L. Parker, and the thousands of other leaders of that fine organization who are gathered here in Washington this week from throughout the world to attend their annual midwinter conference.

The contributions of the American Legion throughout our land to the strength and quality of life in America is impossible to estimate.

Aside from its great leadership position in the field of veterans' matters, the American Legion has formed a broad base of programs which has greatly assisted America to fortify its defense posture and strengthen its society by a number of well-planned and ambitious programs in such critical fields as Americanism, child welfare, youth recreation, as well as community health, safety, and public service. Particularly significant among the Legion's youth and public service programs are the baseball programs, and the Legion's active support of Boys Nation, Boy Scouts, Boys' Clubs, high school oratorical contests, and thousands of marching units, drill teams, and drum and bugle corps.

Over the 54 years of the American Legion's existence, its hallmark has been its versatility in responding to the major needs of our time. Most recently, the American Legion has been instrumental in addressing itself and reminding others of one of the most critical problems of our times—the plight of America's prisoners of war and those who are missing in action. The Legion has helped the families of those men to know they are not alone in the struggle to obtain information about the POW–MIA's. I hope the day will come very soon permitting a happy reunion with these servicemen and their faithful families.

Mr. Speaker, of particular importance today is the American Legion's efforts to reach out to the Vietnam veteran who has concluded his tour of duty and returned safely home. To this new generation of veterans, the American Legion is working tirelessly to improve and help implement the many veterans' benefits which are available. The American Legion has been especially active in the Jobs for Veterans programs. To those who have returned home sick and wounded, the Legion is rendering invaluable assistance to insure that they will have the best program of hospital and medical care in the world. Legionnaires and Auxiliary members by the thousands have performed countless hours of service each year in every one of VA's 165 hospitals—the largest single hospital system in the world. The work they do is as varied as the needs of the patients.

Mr. Speaker, during 25 years of congressional service, it has been a great pleasure to meet often with the professional staff of the American Legion on the complex problems which face our Nation's veterans. I want to pay particular tribute to the current staff headed by National Adjutant Bill Hauck, who has been a pillar of strength throughout the years. He has been ably assisted by a most dedicated group of the legislative staff under the directorship of Herald Stringer and his two most capable assistants, "Chuck" Mattingly and Terry Wertz. It has also been a great pleasure for me and my staff to work closely again this year with the National Rehabilitation Commission Director Ed Golembieski and his outstanding staff of professionals who have been of great assistance in rehabilitation and VA hospital matters.

Mr. Speaker, the American Legion epitomizes the things which make American democracy function, and I will continue to count heavily in the years to come on this great organization in carrying out our mutual goal of faithfully serving America, its veterans, and their families.

Mr. Speaker, the National Commander of the American Legion appeared before the House Veterans' Affairs Committee this morning and appeared before the Senate Committee this afternoon. They have invited all the Members to have dinner with them tomorrow night. I hope the Membership of the House will accept the invitation.

Mr. ARENDS. Mr. Speaker, this is "Legion Day on the Hill." This is the day that our friends and comrades of the American Legion visit with us as their respective representatives in Congress, and the day when the American Legion officially presents its program to the Congress.

As a Legionnaire, and as a Member of Congress, I cannot let this day pass without expressing my very real appreciation of all the American Legion has done over the years in behalf of our veterans and in behalf of the cause of Americanism.

The American Legion today commemorates its 53d anniversary. From the day of its founding to this very day the organization, now some 2.7 million strong, has pursued the ideals of service to God and country.

Members of the American Legion are those who wore the uniform of the United States with pride and with honor. Many bear the scars of battle. They know the horrors of war. They now wear with pride the insignia of the American Legion as peacetime warriors in the fight to make certain our country's continued preparedness that we may always be secure in our cherished heritage of freedom.

I extend my personal congratulations to the officers and the entire membership of the American Legion. I am proud to have been one of your comrades in arms and to be one of your comrades in the American Legion.

Mr. MILLER of Ohio. Mr. Speaker, it is a distinct pleasure to join in this period of commemoration of the American Legion. As one who has worked closely with the memberships of the 68 American Legion posts located throughout southeastern Ohio and the 10th Congressional District, I can especially appreciate the dedication to duty, honor, and country characterized by the work of all legionnaires and their affiliates.

It is significant to note, I feel, that the House Veterans' Affairs Committee just today received the testimony of the National Commander of the American Legeon, John H. Geiger, outlining the Legion's legislative position on matters of vital concern to America's military veterans. If the past is prologue to the future, the needs of America's servicemen will indeed be met by a conscientious Congress with the support of the American Legion. I am reminded of the important role the Legion played in formulating the original GI bill at the conclusion of World War II. As the result of this monumental piece of legislation, millions of American servicemen have been able to further their formal education and consequently keep America progressive and productive.

Mr. Speaker, there are presently 2.7 million members listed on the role of the American Legion. Add to this figure an additional million in membership of the American Legion Auxiliary and 1972 membership totals more than 3.7 million Legionnaires. The American Legion includes more than 16,000 posts throughout the United States and around the globe. It is fitting that the Legion was founded in Paris in 1919, at the conclusion of the First World War. Since its inception, the Legion has steadily grown—not only in terms of membership but in scope of service and contribution to the American way of life.

"For God and Country"—the Legion motto—is understandably appropriate.

In closing, Mr. Speaker, permit me to remark on one further point of interest with regard to Legion membership. It involves our young veterans of Vietnam. While some militant groups in this country have clamored in the streets, engagin mass civil disobedience under the guise of promoting change in America, other equally concerned—but far less flamboyant—Vietnam veterans have quietly and consistently worked for constructive change within the system.

While news of protestors commanded front-page play and prime TV time, many groups of Vietnam veterans working closely with the American Legion were quietly but methodically attacking the pressing domestic problems facing the young Vietnam returnee.

I can draw from the example in my home State of Ohio where, during the past summer, the American Legion along with the National Association of Collegiate Veterans labored long and hard to organize and implement a number of extensive "Opportunity Fairs" across the State to provide broader job opportunities, expanded educational aid and ready Federal, State, and local veterans assistance to those men who had served in Southeast Asia. It is this sort of constructive cooperation which deserves a tip of the hat and a headline or two.

I think it is noteworthy that the number of Vietnam veterans holding membership in the American Legion is now second only to the number of World War II veterans. More than 425,000 Vietnam returnees have joined the Legion and it is with respect for their services—past and present—that I couple these remarks of recognition for the Legion with a note of special gratitude for them.

Mr. DANIEL of Virginia. Mr. Speaker, for this opportunity to participate in American Legion Day on the Hill, I am sincerely and humbly grateful, and wish to commend my colleague, Chairman OLIN TEAGUE, for arranging this special order to pay tribute to one of America's great veterans organization.

It was my honor to serve as National Commander of the American Legion, and

in that capacity I had the opportunity to observe our Legionnaires in action, playing a vital role in building and protecting this, this great Nation.

Listen, if you will, to the words of some of the great men of our time who were not privileged to membership in the American Legion. John Edgar Hoover said, and this is a great tribute to the men of World War I:

> Had it not been for The American Legion, subversive forces within would have destroyed our country while the flower of her youth was fighting for her preservation on foreign battlefields.

The late Bernard Baruch, a great statesman who was not given to wild and rash statements, said:

> Within the American Legion thrives the greatest corps of Americanism alive anywhere in the world today.

The American Legion may take pride in the splendid chain of Veterans' Administration hospitals that ring our land, and for which the organization is primarily responsible. The Legion's youth programs, designed to instill in our leaders of tomorrow a sense of appreciation of the rich heritage they enjoy under a representative form of government, is also a matter of great pride. The American Legion has unremittedly supported that immortal document known as our Constitution, the greatest experiment ever devised by man for the governing of itself, along with the Bill of Rights which builds fences around individual liberties which governments may wish to take away.

The American Legion has consistently remained public enemy No. 1 on the list of the Kremlin because of its relentless fight against international atheistic communism. I am proud that the Legion is now sponsoring a religious emphasis program designed to bring all our people close to the Creator who has blessed us all so bountifully.

The accomplishments of the American Legion are recorded history, and a proud history it is. In my judgment, the Legion will face up to the challenge of today with the same zeal and vigor that have marked its accomplishments for the past 53 years.

Mr. TEAGUE of California. Mr. Speaker, over the years, the American Legion has espoused the cause of our veterans beginning with World War I when they gathered in France to form the patriotic organization insuring that the veterans of our wars would not be forgotten for the services they rendered in the defense of our country.

Today, the national commander, John H. Geiger, appeared before the Committee on Veterans' Affairs presenting the legislative program of the American Legion for 1972. This is an organization that keeps abreast of its commitments and without its soundings from the grassroots the Congress would be hard pressed to enact legislation to meet the needs of the moment.

The Legion has an enviable record of achievement. Veterans' benefits available under existing law can be attributed in a large measure to the efforts of the American Legion. Their effectiveness is attested to by their leadership in the establishment of the Veterans' Bureau in 1921 and its successor, the Veterans' Administration in 1930; the World War Veterans Act of 1924; the first nonservice connected pension program for widows and orphans; the World War II GI bill which established the program for veterans of the more recent conflicts.

These cover the highlights of their record, but the existing legislation was assisted in many ways by their wise advice in the even broader program of benefits available today.

In addition to their legislative effort the American Legion maintains a rehabilitation program to assist veterans and their dependents in obtaining the benefits to which they are entitled. At the post and department levels and the staff they maintain at the national level they are counseling thousands of veterans and their dependents, helping them file and process their claims, gain admission to Veterans' Administration hospitals and assisting in guiding them in the myriad of problems with which they are confronted.

The American Legion is not concerned solely with veterans. As a patriotic organization it acknowledges an overall commitment to the welfare of our country. Accordingly, it embraces the youth of our Nation by involvement in the American Legion baseball program, the training ground for people such as Yogi Berra, Stan Musial, Jackie Robinson and Ted Williams, an inspiration to all young baseball aspirants. Some 4,000 certified teams vie for the honor of playing in the American Legion World Series.

The Legion also sponsors Boys State and Boys Nation where the youth of our Nation learn the responsibilities and the rights that come to citizens within our society.

In addition the Legion is active in promoting the Boy Scouts and offers a national high school oratorial contest devoted to the theme of patriotism.

This is an organization which relates and rises to meet the needs of the moment in a continuing resolve to keep the United States the strongest nation on earth.

I salute the American Legion in its many years of continuing achievement and rest more easily in the awareness that we have little to fear from external forces with guardians of the ramparts such as this.

Mr. DUNCAN. Mr. Speaker, I am pleased to have the opportunity today of joining with colleagues in saluting the American Legion.

I know of no organization in this country that is more patriotic, more concerned about the defense of this country and the freedom of people everywhere.

Some 2.7 million veterans from four wars belong to the Legion, and the ranks grow daily with new memberships of the returning Vietnam veterans. Already there are around 425,000 members who are veterans of the Vietnam conflict.

I speak from personal experience when I praise the American Legion. I have been a member for many years, but I suppose I learned more about the individuals who make up this group when I was State commander of the Legion in Tennessee. I traveled from post to post and met with thousands of Legionnaires. I found these men to have great respect for this country; they support a strong defense in the hopes of preventing future big wars; and they work for freedom for all mankind.

There is great friendship and comradeship among the members of the American Legion. They are dedicated to helping one another and especially to offering moral support to new veterans. Recently they are organizing efforts to help find jobs for veterans, to improve medical services, and to help the veteran become an integral part of his community.

In other words, the main goal of the American Legion is the total well-being of the Nation's veterans. The social activities and the civic activities of the Legion serve the community and thus the Legion is respected and plays an important role in hometowns across the Nation.

Today, during the 53d anniversary of this organization, I say thank you to the Legion for what it has done for all veterans. I offer my support for future efforts to assist the men who have fought our wars.

Mr. HAMMERSCHMIDT. Mr. Speaker, it is a privilege to take part in American Legion Day and to formally recognize the outstanding work of this patriotic organization.

In this, its 53d anniversary year, the American Legion can certainly look back with pride on a long record of service to our Nation's veterans and their families. Dedicated to equitable treatment for all veterans, particularly the disabled, their widows and their orphans; the American Legion's efforts on their behalf have been unceasing.

As a member of the House Committee on Veterans' Affairs, it has been my privilege to meet and work with many members of this organization on legislative matters. The consistent help and cooperation of the American Legion have contributed immensely to the many measures of benefit to our Nation's veterans which have come out of this committee through the years.

This morning the House Committee on Veterans' Affairs was pleased to welcome the many Legion members currently in Washington and to receive testimony from the American Legion's National Commander, John H. Geiger. Mr. Geiger's testimony provided the committee with an informative summary of the Legion's future legislative goals.

While we are necessarily most familiar with the American Legion's very significant contributions in the legislative area, its work on behalf of veterans has long extended far beyond the halls of Congress. All of the Legion's posts, for example, have trained service officers to assist veterans with respect to laws and regulations of benefit to them. The Legion's efforts on behalf of the Veterans' Administration medical care program are also substantial.

In recent years, the Legion has significantly expanded its efforts to assist young men returning from service in

Vietnam. Over a year ago the Legion began its Jobs for Veterans Program by conducting job fairs or job marts in order to bring prospective employers and the veteran together.

Another continuing area of concern for the American Legion has been its program to focus the attention of the American people and of peoples throughout the world on the tragic plight of those who are prisoners of war or missing in action in Southeast Asia.

Perhaps most familiar to citizens throughout the country are the American Legion's many community programs. Of particular benefit have been the Legion's programs for young Americans, such as American Legion Baseball, Boy Scout sponsorship, the National High School Oratorical Contest, the American Legion Boys State, and Boys Nation.

Finally, the American Legion has contributed greatly to that patriotism among American citizens which is such an important component of those things which go into the making of a great nation.

Mr. Speaker, in my judgment the American Legion has truly lived up to its motto, "For God and Country," and I am pleased to join in paying tribute to this fine organization.

Mr. HILLIS. Mr. Speaker, the American Legion, in the city this week for their 12th Annual Washington Conference has designated February 29 as "American Legion Day on Capitol Hill." Considering the many worthwhile projects of this fine organization and their tremendous contributions on behalf of America's veterans, I would like to take this opportunity to salute the Legion and its 2.5 million members and say to those visiting us "welcome aboard."

From Junior League Baseball to Boys and Girls State and Nation, not to mention the countless hours legionnaires and auxiliary members spend in volunteer work at our Veterans' Administration hospitals, the Legion through their programs and service exemplify "Americanism in practice" in the truest sense of the word.

As many of you know the National Headquarters of the American Legion is located in my State in Indianapolis and we "Hoosiers" like to brag about this point when the opportunity presents itself. In this connection a very interesting article appeared in the November 7, 1971 Indianapolis Star sesquicentennial edition describing some of the colorful behind-the-scenes maneuvering at the Legion's first convention on the part of "Hoosier' legionnaires which resulted in the selection of Indianapolis as the National Headquarters site.

Since today is "American Legion Day on Capitol Hill" I thought today would be a good day to share Mr. John M. Booth's article. I personally found it to be a very interesting account of "Hoosier" ingenuity and I commend it to your reading. The article is as follows:

[From the Indianapolis Star; Nov. 7, 1971]

CITY IS LEGION HEADQUARTERS

(By John M. Booth)

Boxes of chocolates, 250 straw hats and a large dose of Hoosier deception were key ingredients in bringing the national headquarters of the American Legion to Indianapolis.

When it snowed in Minneapolis during the Legion's first national convention in 1919, Indiana delegates wearing straw hats stood on street corners, cursing the weather and waving placards reading, "Is This Where the Legion Should Come?"

As the 646 delegates arrived at the Radisson Hotel, many fell victim to elevator girls who had been bribed with chocolates to lead persons asking for the national headquarters to the Indiana headquarters instead.

Even after getting first crack at the delegates, the Hoosiers were not taken seriously at first. Teddy Roosevelt Jr., the "Father of the American Legion," poked an Indiana delegate in the ribs and asked when he was going to close his "sideshow."

Indianapolis had formidable rivals in its bid for the headquarters.

Washington offered the center of government. Philadelphia claimed to be the cradle of liberty. New York City and Kansas City offered grants of $5 million. Chicago extended a blank check and Minneapolis argued that it should be rewarded for being host to the first convention.

All Indianapolis had to offer was the center of the nation's population and the "intent" of building a suitably impressive war memorial.

But a determined delegation, headed by Col. Robert L. Moorhead, Walter Myers and Dr. T. Victor Keene, proved so impressive in lining up support from the Midwest, South and Far West that the Washington group sent out a frantic call for help to high-ranking generals and admirals at the capital.

Indianapolis almost was outwitted in the final stages, however, when rival cities called a vote of the headquarters site committee while delegates from 11 states were attending other committees. Without those crucial votes, Indianapolis lost to Washington, 18 to 10.

The Hoosiers moved quickly to force a vote on the convention floor. Again, Washington came out on top. A majority vote was needed, however, so a run-off was held. Indianapolis won.

So, at a cost of $3,400, Indianapolis became the national headquarters of the world's largest veterans organization whose membership later would grow to 2.7 million.

During the first convention, Legionnaires were horrified by the news that a post commander and three subordinates had been shot and killed as they marched in the Nov. 11 Armistice Day parade at Centralia, Wash.

Sixteen other Legion members were wounded in the ambush staged by the radical Industrial Workers of the World. An angry mob of local citizens stormed the jail where the captured gunmen were held, but they were repulsed by Legionnaires. The mob then seized the electrical plant, turned out every light in town and rushed the jail again.

Legion members managed to hold onto every prisoner but one. He was found swinging from a bridge over the Skookumchuck River the next morning.

Outraged by the "massacre," delegates at Minneapolis vowed to rid the country of lawless dissidents, and the next day the Legion established the National Americanism Commission.

The commission proved so tireless in its pursuit of anti-American elements that in 1958 the Soviet newspaper Tass branded the Legion as "a huge, United States, reactionary, chauvinistic organization whose members are veterans, politicians, bank directors and heads of corporations."

Indianapolis Legionnaires played an active role in the "Red Scare" of the early 1950s. Legion Commander George N. Craig, later governor of Indiana, presided in 1950 at the founding in New York City of the All-American Conference.

Pledged to an impassioned battle against "Reds, Pinks and fellow travelers," the Conference combined 66 major national organizations claiming a membership of more than 50 million patriots.

Men like Dr. Harry Nagle, an Irvington dentist, and Indiana State Police Sgt. Frank Jessup led the battle in Indianapolis, carefully scrutinizing newspaper editorials for signs of subversion and exchanging confidential information about the "latest Red tactics."

Craig and two other men who stepped from Legion positions into the governor's chair figured strongly in the building of the present national headquarters at 700 North Pennsylvania Street.

From 1925 to 1950 the Legion occupied a smaller building across the War Memorial Plaza that had been donated by the state, but in 1945 the Legion found itself outgrowing the building.

Backed by Governor Ralph F. Gates, former Indiana commander, the Legion asked the General Assembly to build a new $2.5 million headquarters.

When Legion officials warned that they would move to Washington otherwise, the legislature quickly responded with the money.

Commander Craig accepted the building in 1950. Past Commander and Former Indiana Governor Paul V. McNutt gave the dedication.

Hoosier Legionnaires have sponsored numerous programs that have earned the Legion world-renown.

The activities include fund drives to combat childhood diseases and sponsoring American Legion baseball, Boys' State and Girls' State and high school debating contests.

Their participation in the Legion's legislative programs have won veterans benefits that would have astounded the delegates who attended that first convention in 1919.

Mr. KEE. Mr. Speaker, I rise to pay tribute to one of the Nation's outstanding organizations, the American Legion, whose founders mindful of their responsibilities even at that first caucus in Paris back in 1919, and before they had decided upon the name of their newly formed organization, vowed that:

So long as we shall live, never shall we permit a battle-wounded comrade to endure the need of proper hospitalization or medical attention; nor shall we permit his widow or orphan to suffer the humiliation of want or the needs for an education.

As a result of this pledge, the Legionnaires all over the world adhere to a series of basic programs designed to uphold that vow. And they are today appearing before the Veterans' Committees of both the Houses and Senate setting forth their legislative goals for the coming year.

Because of the American Legion's insistence that the war veteran be considered in the scheme of things after his return to peacetime pursuits, the Veterans' Administration came into being. The American Legion has been instrumental in increasing the chain of hospitals that dot the map of the United States, as well as supporting wholeheartedly the GI bill which became the law of the land.

In the field of youth activities and community service, the American Legion has established many projects which have been universally accepted. I refer to such challenging programs as the Boys State and Boys Nation project. This is a program whereby high school

boys go to the capitol of their State to learn government by operating government. They go through the processes of forming cities and counties; their election of government counterparts from city councilman to Governor is exciting and interesting.

The Boys Nation program is held in Washington, D.C. each year where the two representatives from each State follow the procedure of the Federal Government to the point of electing a boy president of the Boy's Nation.

Close to 1 million boys each year play baseball under the banner of the American Legion. This program, in my belief, is among the first steps in fair play. It teaches the boy to play by rules, and to learn how to win or lose. And we all know the importance of learning to play by rules.

The American Legion school awards program is another of their youth-interest undertakings. Many medals are awarded students from the elementary through the high school grades each semester for outstanding academic, loyalty, athletic and leadership achievements.

These are wonderful examples of the actions taken by the American Legion to meet the challenge of its heritage. It is, therefore, fitting to take this opportunity to congratulate the American Legion on its impressive record of achievement, dedication, and integrity. I would also like to join with the Legion's many friends all over the world in offering my sincerest congratulations on the anniversary of its founding and on the outstanding record it has established.

Let us be reminded that the soldier, the veteran, does not start the wars. He stops them.

Mr. QUILLEN. Mr. Speaker, I am pleased to participate in this American Legion Day tribute to pay honor to the Nation's largest veterans organization—the American Legion.

Founded in 1919 in Paris, France, the American Legion has experienced repeated growth since then. It is now recognized as one of the best known organizations in the world representing veterans of World War I, World War II, the Korean war, and the Vietnam war. It is indeed noteworthy that more than 425,000 veterans of the conflict in Southeast Asia are members, and many have assumed leadership roles in the Legion.

Composed of citizens of all walks of life, the Legion now has nearly 2.7 million members. The President is a Legionnaire, as are numerous Cabinet members, Supreme Court Justices, and Members of Congress. I, personally, take great pride in my lifetime membership in the American Legion Hammond Post No. 3, Kingsport, Tenn.

The four major programs of the Legion—Americanism, Children and Youth, Veterans' Affairs and Rehabilitation, and National Security—have played an important role in strentghening our Nation.

The Legion is currently placing top priority on efforts to free American prisoners of war in Southeast Asia and to secure jobs for returning veterans of the Vietnam conflict.

Now in its second half-century of service, the American Legion is experiencing another period of growth, having completed its 7th straight year of increasing membership. This is largely due to the acceptance by its youngest and newest group, the veterans of Vietnam.

The Legion is well known nationally for its untiring efforts in behalf of America's veterans—both in providing service and in securing legislation, its long opposition to communistic activity, and for its efforts to secure a strong national defense.

These objectives have been met head-on by the American Legion and it has been a great and powerful influence on our Nation.

"Reach Out—It's Action Time"—is especially timely. Indeed, the Legion enjoys a reputation of positive action toward achieving far-reaching objectives.

The American Legion continues to work for a united America seeking a greater respect for our American heritage. It is dedicated to advancing the ideals of America—justice, freedom, democracy and loyalty—while instilling in every American the invaluable gift of American citizenship.

The Legion is definitely a stabilizing force in America today, as it has been since its founding. To its members who gave so much during wartime to assure our Nation freedom and greatness, it offers an opportunity to serve the Nation and communities during times of peace.

The American Legion is truly a commendable organization whose sacrifices and exemplary acts of citizenship are known throughout the land. The principles for which the Legion stands have served as a shining example for freedom-seeking people everywhere.

And so, Mr. Speaker, I am happy to join my colleagues in wishing the very best to the American Legion and its fine membership.

Mr. HANLEY. Mr. Speaker, it is a genuine honor to add my voice to the chorus of praise offered today to my friends and colleagues of the American Legion.

I am proud to be a member of this great organization, past commander of Tipperary Hill Post 1361, in Syracuse, N.Y. In addition, I am privileged with a life membership in this great organization. But the pride I share today is not of a personal measure, it is of a measure that is far higher, a pride that every member of the Legion feels toward this organization that has done so much for the country we love.

Today is the 53d anniversary of the founding of the American Legion, and as such, it is a day to reflect on the Legion's distinguished past, and honor the more than 2 million men who are its members.

Through hard work and dedication, the Legion has secured many rights for veterans that had been sadly lacking in this country. Not only has the Legion helped the veteran himself, but its efforts to aid the widows and orphans of our men lost in combat have become a model of humanitarian concern in action.

Founded on the principles of comradeship and patriotism, the Legion is as active and as vital today as it was at its inception. For the seventh straight year, Legion membership has gone up. They have extended the hand of friendship to our returning veterans of Vietnam, helping them to find work and get settled. They have not forgotten the men still in Southeast Asia either. The Legion has continually focused attention on the deplorable situation of our men who are being held as prisoners of war.

But men of the Legion do more than simply aid the veteran and his family. Legionnaires organize and participate in many activities that improve community life. An example is the youth programs the Legion sponsors. Certainly their service to America is unrivaled.

And the Legion is active in the political life of the Nation. Appalled by the horror of their own war experiences, the men of the Legion form a strong voice for a defense that will serve to deter enemy aggression.

Mr. Speaker, the Legion has a long and glorious past, and I am proud to be associated with the organization. I am sure we all look forward to the day when we will have no veterans coming home because there will be no war. But until that day, the Legion will continue to serve, as the motto of the Legion commands: For God and Country.

I want to salute the Legion, and the men who make it great. They have contributed much to the Nation and to mankind.

Mr. ANDREWS. Mr. Speaker, today, February 29, is "American Legion Day on the Hill," and I personally want to welcome all legionnaires attending this annual Washington conference of the American Legion, especially those coming from North Dakota.

This is the 53d anniversary of the world's largest organization, an organization made up of members who are solid citizens dedicated to advancing the credo of love for flag and country.

I sincerely think it is appropriate that we take time to pay tribute to this outstanding organization that has done so much for the brave men of this country who have been sent to foreign shores to protect freedom.

Of course, the Legion post is a familiar site in most every hamlet in this great Nation, and I am proud to say that the American Legion is a strong organization in my State. I am proud to be able to pay my personal tribute to the American Legion for a job well done, and my sincere best wishes for continued success in the future in working for the veterans of this country.

Mr. NICHOLS. Mr. Speaker, I want today to commend our American Legion on the precepts and principles upon which it was founded and on its dedicated stand in behalf of maintaining a strong America. I have been privileged to be a member of Sylacauga, Ala., Post No. 45 of the American Legion now for better than a quarter of a century. I have had the opportunity to become thoroughly familiar with this organization—I know how very much the American Legion does for our country and its people, to help maintain our security, to obtain veterans benefits and opportunities for veterans and their families, and to relieve human distress and suffering.

Certainly no single group has a better right to express their views on matters that can determine on whether our Nation will survive or perish, than those who have been willing to risk their lives to insure its survival. No one has a better right to receive needed help from their fellow citizens and their Government than those who help to protect this land in times of deepest peril and who, in many cases, still bear the scars of battle.

Mr. Speaker, today the House Committee on Veterans' Affairs was presented testimony from the national commander of the American Legion, Mr. John H. Geiger on specific legislative proposals which are pending before the Congress.

There are several phases of veterans benefits which are in acute need of revision and, therefore, I would like to speak out today, Mr. Speaker, for prompt congressional attention to such matters.

In view of the increased cost of education and institutes of higher learning, the present education assistance provided by the Veterans' Administration is inadequate to meet the increased cost of education to veterans. I, therefore, Mr. Speaker, support the American Legion's position for an increase in educational assistance to young veterans who are striving so hard and in imminent instances under most difficult circumstances to obtain a college education.

Mr. Speaker, in regard to increased rates of compensation for service-disabled veterans, there has been no increase in compensation for the service-connected veteran since July of 1970. We all realize that there has been a major increase in the cost of living and for the veterans receiving compensation due to service incurred disabilities or disease, they are finding it most difficult to meet the everyday cost of living based on the current compensation being paid and it is certainly in order and timely to grant an increase at this time.

Mr. Speaker, I support the American Legion's position that every honorably discharged veteran has the opportunity of burial in a national cemetery, if this is his desire. I further believe that inasmuch as the Veterans' Administration is charged with the responsibility of administering all phases of veterans benefits, that the national cemeteries should be under the jurisdiction of the Administrator of the Veterans' Administration and that he should exert his efforts and authority to provide burial in a national cemetery to those honorably discharged, who desire same.

I further believe that the present $250 burial allowance, provided by the Veterans' Administration is most inadequate for the proper burial of a honorably discharged veteran. The increased cost of funeral expenses has been tremendous over the past few years and, therefore, Mr. Speaker, I respectfully urge all Members of this body for their united support in the American Legion's position for an increase in the burial and funeral expenses of those who have served honorably for their country.

Mr. Speaker, if the American Legion is accused of being a special interest group, the answer should be—that it is indeed and that its special interest is assuring that the United States continue to be a strong and free Nation in a peaceful world.

Mr. YATRON. Mr. Speaker, for most of the past 30 years, the United States has been engaged in a war in some part of the world. Throughout this period, we have used conscription to raise the major part of our Armed Forces. The use of the draft, which has not been customary in the broad sweep of our national history, illustrates just how extraordinary this period has been.

Before World War II, the United States fought for freedom in international conflicts as varied and bizarre as their names. World War I and the Spanish-American War of 1898, not to mention battles with the English, French, and Dutch in the 18th and 19th centuries, have produced many heroes. They have also produced many lessons upon which we have built this great Nation of ours.

Without the strength of the past, we cannot expect to achieve our objectives in the future. With the irony of a paradoxical world, the surest guarantee of peace at the present is the power to protect the Nation in the future.

In this vein, tens of millions of young American men and women have served their Nation with distinction and honor. Most of them are now veterans. Of particular importance are those who have been called upon to make great sacrifices in Indochina in a war which has divided our Nation and which many now consider to have been a mistake.

The entire American people owe a special debt to these servicemen, servicewomen, and veterans. We have recognized this debt over the years through the creation of the Veterans' Administration and of a wide range of programs intended to provide special assistance to those who have made personal sacrifices for our country.

Mr. Speaker, in view of the exceptionally fine job the House Veterans' Affairs Committee has done under the able guidance of its chairman, the Honorable OLIN TEAGUE, my respected colleague from Texas, I must say that the national commander of the American Legion had much to be thankful for when he spoke before the Veterans' Affairs Committee today.

By the same token, I am certain that America's veterans also have much to be thankful for. They have been assisted in a manner which befits the fine service they have rendered to their Nation. I am proud to have had the opportunity to aid these servicemen and women through my participation as a Member of Congress. I thank the Veterans' Affairs Committee and all Members of the House and Senate for consenting to approve the many measures which have aided our service personnel. I am sure that Congress will continue to provide the same high-quality assistance in the future that our veterans have witnessed in the past. It is certain that the House Veterans' Affairs Committee will continue to assure this excellent service.

Mr. WYLIE. Mr. Speaker, I join the distinguished chairman of the Veterans Affairs Committee in commending the American Legion for its outstanding service to our country and more particularly our veterans.

As a member of the Veterans Committee, I have worked closely with the Legion on legislation to assist our veterans.

A major concern of the Legion is how to reassimilate the returning veteran to civilian life. Veteran rehabilitation has been a foundation stone of the American Legion. The Legion's rehabilitation help takes many forms, such as, helping a veteran receive medical attention, getting school training or assistance in obtaining meaningful employment.

To give impetus and strength to this humane effort, the Legion, through its volunteers, has deeply involved itself with the youth of our Nation. In totaling the Legion's work with youth, we must add to their efforts such programs as Boys State and Boys Nation where young high schoolers learn the elements of government by actual participation. Here they also learn the responsibilities as well as the rights that come to citizens in a government of law within a free society. There are an estimated half-million boys and girls culturally involved by the Legion in bands and drum corps.

But what of the Legion itself, its growth and its future role of service to our Nation and society?

The history of the United States expanding world commitments since 1917 is reflected in the growth of the Legion. The founders at that initial Paris meeting had no idea that the Legion would be anything more than an organization of veterans from the First World War.

The Legion membership is now composed of 2,700,000 veterans. Included in this membership are nearly 500,000 Vietnam veterans.

The latest generation of veterans eligible for joining the Legion in increasing numbers are those who have served during the current Vietnam period.

The new Vietnam period veteran is finding the Legion a worthy vehicle through which to give expression to civic service.

While it can look back on a proud record of service in many important and vital areas to the Nation, the American Legion is not content to rest on its past achievements.

In short, the American Leigon has its sights focused on the future and an even greater role of service to the community and Nation. Mr. Speaker, I commend the American Legion as an outstanding patriotic organization and one of which I am proud to be a member of more than 20 years.

Mr. McCORMACK. Mr. Speaker, this opportunity to salute and to commemorate American Legion Day is an honor as well as a privilege for me as a Member of Congress, and as a member of the American Legion.

We Legionnaires are proud of our organization. This pride is founded not only on what the Legion is doing now for America but also on what it has accomplished, and what it will accomplish, for our country.

With a strength of nearly 2.7 million members, the Legion is the Nation's largest veterans organizaton. Our members are to be found in more than 16,000

local posts scattered throughout the United States and 28 foreign countries. I am proud to be a member of the Richland, Wash., American Legion Post No. 71 and a past chairman of the Americanism committee of my post.

Now, 3 years into its second half-century of service, the Legion is another period of growth. We are experiencing this growth because of our concern for our youngest and newest group—the Vietnam veteran.

The legion is well known for our efforts to secure a strong national defense, but we are more concerned with providing services and in securing legislation for our veterans.

The Legion is proud that we now have more than 300,000 Vietnam veterans as members.

These young men have been through a nasty war. They have made sacrifices, and they are not sure that their sacrifices are appreciated. They have some very definite ideas about America's future. They are concerned with their own future, and that of their families.

These young veterans respond to an organization that recognizes their contributions to our country; that offers them an opportunity to participate in their post activities, and through their post, in the affairs of their community, State, and Nation; that assists them in resolving many of their personal problems that face them as they adjust to a civilian life. The American Legion demonstrates its concern for these young men; and we honor them, regardless of our personal stance on the Vietnam war.

The Legion is seeking to especially assist our newest veterans in finding suitable jobs. This is called the jobs for veterans program. This effort has been made in cooperation with various government agencies, with employers, and with many civic groups. The Legion, through its deeds, seeks to demonstrate our appreciation, as they seek results for these very important young men and women who have worn and honored the uniform of our Nation.

Mr. BRASCO. Mr. Speaker, it is altogether fitting that we should honor the veterans of our country on this, of all days. In years past, when Americans had need of their services, they came forward by the millions to defend our Nation, defeat its enemies, and uphold our ideals. Gathering into organizations such as the American Legion, they have become a force for good in peace as well as they have been a force for peace from war.

Their numerous constructive activities over the years have assisted millions of Americans tangibly. Their activism has aided in strengthening our institutions and the debt our society has to them is both cumulative and immeasurable. I believe the example they set is most worthy of emulation, and that the tribute we pay them should not be reserved for just 1 day of the year.

The finest tribute could be offered by a greater understanding by all of us of the principles their previous sacrifices and present activism have enshrined.

Mr. WINN. Mr. Speaker, as a member of the Veterans' Affairs Committee, I am doubly appreciative of the opportunity Chairman TEAGUE has provided for us to comment on the activities of the American Legion.

Earlier today, I had the pleasure of having breakfast with Legionnaires from my home State. This meeting and a later briefing by the national commander for members of the Veterans' Affairs Committee is particularly useful to me.

Briefings such as these are excellent examples of the tireless efforts by the Legion to improve the way of life for our Nation's veterans.

I would like to take this opportunity to bring to the attention of my colleagues some of the accomplishments of the American Legion. The American Legion with its over 2,700,000 veterans in more than 16,000 posts throughout the Nation has become a recognized way of life for many of this Nation's veterans.

Their work on veterans' rehabilitation should not go unnoticed. They strive tirelessly on behalf of our Nation's veterans regardless of membership in the Legion.

The youth of this Nation benefit from their work. For example, the American Legion sponsors over 4,000 Boy Scouts troops. Their sponsorship of Boy's Nation and high school oratorical contests is well known.

The American Legion Auxiliary has in its own right over 1 million members. Not only does the Auxiliary provide strong support for Legion rehabilitation and child welfare programs, but these women often run parallel programs for girls of our Nation.

The American Legion has always had a special interest in education. We are all aware of their continuing interest and support for the GI bill. But more importantly they are devoted to developing an interest in our schools, their purpose, and their continuing needs.

Mr. KEMP. Mr. Speaker, the American Legion, which is the largest organization of war veterans in our Nation, will celebrate its 53d anniversary on March 15. It is an honor to join my colleagues in paying tribute to this splendid group of individuals.

For more than half a century, American Legion members have dedicated their efforts to upholding its motto "For God and Country." The Legion was founded at Paris, France, on March 15, 1919, by members of the first American Expeditionary Force. Over the years, the organization has grown until today the Legion has a membership of more than 2½ million and more than 16,000 individual posts.

The Legion's many accomplishments include the sponsorship of over 4,000 Boy Scout units and a multitude of sports events. Its youth programs include Boys' State and Nation, Girls' State and Nation, as well as the national high school oratorical contest, and a variety of scholarship projects.

The Legion is noted for its efforts to help the returning serviceman adjust to civilian life and has assured the welfare of the veteran's widow and children. Since 1925 the organization has spent approximately $200 million to protect the welfare of veterans' children.

The GI bill is directly due to the efforts of the American Legion. This legislation, which insures the right of the veteran to many rehabilitation and compensation programs, was sponsored by the Legion to aid the returning veterans of World War II.

Since the first GI bill, the Legion has worked to obtain the same benefits for Korean war veterans and now for veterans of the Vietnam war.

Today the Legion is trying, through their posts, to bring Vietnam veterans in contact with employers. This Legion program of "job fairs," which began more than a year before similar Federal efforts, has successfully placed more than 70,000 Vietnam veterans.

This week over 1,000 Legion executives and officials are visiting Washington for important executive meetings. I commend the American Legion for its outstanding accomplishments over the years, and I wish the visiting Legionnaires and those in posts all over our country, every success in their endeavors.

Mr. BRAY. Mr. Speaker, today is American Legion Day on Capitol Hill. In recognition of our visitors, I wish to insert an excerpt from some remarks I made 3 years ago, on March 4, 1969, in commemoration of the American Legion's 50th anniversary:

THE AMERICAN LEGION

(Remarks by Congressman WILLIAM G. BRAY)

The men who met in Paris in 1919 to found the American Legion could not foresee that within 50 years the ranks of their Legion comrades would be swelled by veterans of three more wars. Their love for their country, their belief and faith in its ideals, and their hopes for its future had been forged and strengthened in the fiery crucible of World War I that had dragged the United States for all time into the position of major world power. Whether they knew the direction their country would take in the years to come, no man knows. But we can be sure that they knew of the latent potential strength and possibilities that lay within the "band of brothers" and, so, as the preamble to the Legion constitution states, they determined that "For God and Country we associate ourselves together for the following purposes." Let us reflect on this preamble, for within its phrases and what they mean lie the objectives and forces that have made the American Legion the powerful and moving force for good that it has become.

"To uphold and defend the Constitution of the United States of America."

What could be more fitting for an opening phrase? Our country stands upon its Constitution, that document termed by the great English statesman Gladstone "the most remarkable work known to me in modern times to have been produced by the human intellect, at a single stroke—so to speak—in its application to political affairs."

"To maintain law and order."

This is one of the eternal truths of our American Republic, and it was cited in President Thomas Jefferson's eighth annual message to Congress when he said: "Love of liberty, obedience to law, and support of the public authorities, a sure guaranty of permanence of our republic."

"To foster and perpetuate a 100 percent Americanism."

This idea is one often scorned in some circles. It is charged that there is no such thing as Americanism, let alone "100 percent," but to those who carp, and mock, and criticize, I would respond in this fashion: It is true that our country is a melting pot, of all races,

creeds, and nationalities. But it is also true that this has been distilled into something found only in America; it is a national will, a national ethic, a national goal. It shows itself in a country that goes all out and at the expense of much blood and treasure to defeat its enemies, then turns right around and feeds these same one-time enemies and helps them regain their place in the community of nations. It is manifested in that country whose citizenry gives voluntarily more of their private time and resources in attempts to do good for others than any other country on earth. Yes, it is real, and, yes, certainly, it is worth fostering and perpetuating.

"To preserve the memories and incidents or our associations in the Great Wars."

"We band of brothers." That mystical bond and kinship felt among men who have worn their country's uniform, and have borne the weight of its battles, is like nothing else on earth. Those who have seen the face of war are also those most eager and dedicated to preserving the peace they have helped to secure.

"To inculcate a sense of individual obligation to the community, State and Nation."

"Individual obligation"—something all too often cast aside today, trampled in the dust by the new theories that the individual is neither responsible for nor owes his community, State, and Nation anything, but that society collectively both owes the individual all, and is morally guilty of whatever transgressions the individual commits. This is a sentiment totally alien to all enlightened concepts of human nature. Restoration of this sense of individual obligation is what the country needs now more than at any other time in its history.

"To combat the autocracy of both the classes and the masses."

Dictatorship, despotism, can come like thieves in the night, under banners that proclaim, falsely, equal justice and liberty and prosperity for all. It is not restricted to one certain political creed, this danger; is not confined to one social or economic class alone, and not to be found in another. The danger is demagoguery in all forms, that rends a nation, divides its people, fills them with fear and foreboding, and then sees them turn to the first mountebank and charlatan who promises them relief from their troubles. All have a role to fulfill; none has a right to impose tyrannical rule on the rest.

"To make right the master of might."

None need fear the power of another if those who wield it do so only in the name of what is right, and at the call and plea of those who are oppressed. When a country is granted power, it also takes on the solemn obligation to use it only for honorable causes and in defense of the rights of free men.

"To promote peace and good will on earth."

No nobler objective could be cited, and, sadly enough, at times it seems that nothing can be farther from achievement by mankind than good will among all and the blessings of peace. But it is a goal to be kept eternally fixed and worked for, and never to be forgotten.

"To safeguard and transmit to posterity the principles of justice, freedom and democracy."

If these principles, strong and untarnished and shining, can be passed on to future generations, then that generation which has gone before will know their work was well done, and their duty to those who come after them has been faithfully and conscientiously carried out. If these principles endure, then so does the Nation and its people. If they fail, then the Nation and people decline and ultimately fall. And a sacred trust will have been betrayed.

"To consecrate and sanctify our comradeship by our devotion to mutual helpfulness."

When men band together, no matter what the reason and no matter what the bond, they take upon themselves responsibilities and duties that make this very association an outstanding and special thing. "Mutual helpfulness" is a simple term, but as is so often the case with simple and uncomplicated statements, it speaks more truth then volumes of empty rhetoric.

Mr. HALPERN. Mr. Speaker, I would like to call your attention at this time to the fact that 53 years ago the American Legion came into being at a caucus of the first American Expeditionary Force in Paris, France, March 15 to 17, 1919.

Since the close of World War I, more than half a century ago, the American Legion has shown repeatedly that the basic strength of a nation rests upon the patriotic response of its people. In the entire history of the American Legion there has never been a time when the Nation has had the slightest doubt concerning the attitude of the Legion and its members toward patriotism and Americanism. From the start it has been clear: That the American Legion is an organized, stable, dedicated, undeceived friend of American principles, and a stalwart enemy of everything which in any way imposes a threat upon the American way of life.

In the minds of those who organized the Legion were a number of ideals, uppermost among which were:

First. Creation of a fraternity based upon firm comradeship born of war service and dedicated to a square deal for all veterans, particularly the disabled, their widows, and orphans;

Second. National security for America, including a strong military for the prevention of future world conflicts; and

Third. Promotion of a 100 percent Americanism and the combating of communism, nazism, fascism, and all other alien isms.

The preamble of the American Legion tells much about the organization. It reads:

For God and Country, we associate ourselves together for the following purposes:

To uphold and defend the Constitution of the United States of America;

To maintain law and order;

To foster and perpetuate a 100 percent Americanism;

To preserve the memories and incidents of our associations in the Great Wars;

To inculcate a sense of individual obligation to the community, state and nation;

To combat the autocracy of both the classes and the masses;

To make right the master of might;

To promote peace and good will on earth;

To safeguard and transmit to posterity the principles of justice, freedom and democracy;

To consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

Adherence to the principles of the Legion has required hard work, persistent effort, infinite patience, and constant careful evaluation of issues.

American Legion posts have been established throughout the length and breadth of the land in order that Legionnaires may get together for social occasions and carry on the Legion's work at the community level.

After World War I there were no hospital and medical programs for disabled veterans. The Legion fought to make this program the finest of its kind in the world today. The American Legion was the architect of the original GI bill of rights in 1944, and it has continued to make its legislative desires known to Congress in order that the needs of today's veterans will be recognized and met.

The American Legion has directed special efforts to working with American youth. The year 1972 marks the 46th anniversary of American Legion Junior Baseball. Boy's Nation, started in 1946, annually brings hundreds of young American leaders, representing every State in our Union, to the Nation's Capital, Washington, D.C. These youth are selected from those who have made the best records of achievement in their respective Boy's State.

Many other youth programs sponsored by the American Legion are aimed at the perpetuation of 100 percent Americanism. There is perhaps no more impressive evidence of why "It's great to be an American Legionnaire" than the record of unselfish service to the youth of America.

Since its inception, the American Legion, with the adoption of the Americanism program, assumed an obligation to teach a love of American traditions and a philosophy of government. The Legion's high school oratorical contest, first started in 1938, has developed into a program in which hundreds of thousands of talented students annually take part, developing a deeper knowledge and appreciation of the Constitution of the United States.

American Legion school awards are made annually to these boys and girls in the graduating classes of elementary, junior or senior high schools who are outstanding in honor, courage, scholarship, leadership, and service. The Legion has supported the Boy Scout movement as a tremendous force in building good citizens, and it sponsors thousands of Scout units throughout the land.

And so the American Legion, organized as a veterans organization in 1919, has come to be more than a meeting-place for those who have worn the Nation's uniform proudly when duty called. It has also become a source of inspiration and strength for America's all-important citizens of tomorrow—its youth.

Mr. SAYLOR. Mr. Speaker, this morning the Committee on Veterans' Affairs was privileged to welcome the national commander of the American Legion, Mr. John H. Geiger, his national staff and several hundred State and local officials of the American Legion and its Auxiliary. Commander Geiger presented the highlights of his organization's program for this second session of the 92d Congress.

The commander made one of the most impressive statements that it has been my privilege to hear. It reflected the American Legion's traditional concern for the Nation's veterans and their dependents, particularly those who were disabled as the result of military service.

During the course of this morning's meeting, Mr. Speaker, I voiced my own concern about a matter that is currently the subject of hearings before a subcommittee in the other body. I am referring to the so-called amnesty for American citizens who fled this country to escape

the obligation of military service. When I expounded my very definite view that such amnesty should not be granted to these draft dodgers without a penalty consisting of a tour of active duty in the Armed Forces of the United States, the sustained applause from the several hundred legionnaires present was a clear indication that the American Legion supports this position. I am pleased to learn that the American Legion will present testimony to the subcommittee in the other body holding hearings on this subject sometime this week.

Mr. Speaker, since the days of Valley Forge when our forefathers were fighting for the establishment of this great Nation, our people have proudly accepted military service during time of war or national emergency as an obligation of citizenship. Were it not for the farmer forsaking his plow, the laborer, his lathe—the American citizen leaving his family to perform military service, our Nation would not have survived.

In the past, there have been isolated instances of outright draft dodging. All of these cases, to my knowledge, have received the full penalty of the law for their offense. There are those who now argue that we should forgive and forget because of the unprecedented numbers involved. Mr. Speaker, I am willing to conditionally forgive, but I will never forget. As a condition of forgiveness, I repeat that every offender should be required to complete a tour of active military service. Although I have termed such a tour of active duty a penalty, each draft dodger should consider it a privilege to be given a second chance to serve his Nation through military service. I am pleased that the American Legion shares my views in this matter.

Mr. DULSKI. Mr. Speaker, I am delighted to have this opportunity to join my chairman of the Veterans' Affairs Committee, Mr. TEAGUE of Texas, in this floor recognition of the American Legion on the eve of its 53d anniversary.

The national commander, John H. Geiger, and his staff, along with several hundred members of the Legion, are in Washington for their annual conference.

Commander Geiger appeared before our committee and made the traditional legislative presentation in the interest of all veterans. Mr. Geiger made a very excellent statement and, as always, the Legion has been most cooperative and helpful in looking to progressive and reasonable legislative assistance for our Nation's veterans.

I am particularly delighted that several members of my own Post, Adam Plewacki Post No. 79, as well as another dozen members from Erie County, were among those taking part in today's presentation before our committee and in the national conference.

I had a pleasant discussion with Vice Cmdr. Peter Drezek and Past Cmdr. Eugene Kayne of the Plewacki Post as well as with Past Cmdr. John Michaels and Ted Smigiera.

I think it is quite appropriate for me to be somewhat provincial in my reference to this "American Legion Day on the Hill" since my Adam Plewacki Post comprises 2,880 members and is the largest post in the State of New York. There are 16,000 posts in the Nation and Plewacki Post ranks among the top 20 in size.

I have been an active member of the post for many years and know well of the important role of the American Legion, both locally and nationally.

I have been a member of the Veterans' Affairs Committee since I came to Congress and I am very sympathetic to the needs of those who have served our Nation in time of war. I also have a deep and sympathetic concern for the interests of the many widows and orphans.

Since its founding in Paris in 1919, the American Legion has been concerned, on a continuing basis, with our national defense. The Legion feels strongly that the United States must remain strong if there is to be any chance of peace in our time.

In this regard, the Legion now is fearful that the Nation once again is downgrading the importance of a strong Military Establishment. This is indeed a great danger—not unexpected—in connection with the current national frustration at the protracted engagement of our forces in Vietnam.

There has been a concerted effort on the part of the Congress to cooperate with the Department of Defense in making the military service attractive to our young men on a voluntary basis in order to keep our forces at the strength which we need to maintain the peace.

When the Legion was formed 53 years ago, its initial focus was on assistance for the returning veteran, particularly the disabled veteran.

Again today, the Legion is facing up to the needs of the returning veteran while at the same time continuing its efforts to see that our older veterans, particularly the disabled, as well as the widows and the orphans are receiving adequate assistance from their country.

With the current trimming of our forces in Vietnam and the release of draftees from service, we are facing a very serious problem in providing employment for these returning veterans.

I have been working closely with the committee in seeking to deal with this problem which is made all the more difficult by the fact that unemployment is increasing at the same time in our domestic economy.

Mr. Speaker, I am happy to join my chairman in this salute to the American Legion on this occasion and to wish all the members a very happy 53d anniversary of the founding of the American Legion.

Mr. MONAGAN. Mr. Speaker, the 49th annual National Veteran's Affairs and Rehabilitation Conference of the American Legion is underway in Washington. All of us have had the privilege of conferring with representatives of Legion posts representing virtually every one of the 50 States and I had the honor of taking lunch just a few hours ago with Comdr. Chet D. Hirsch of the American Legion Department, of Connecticut, and a large number of his comrades who are in Washington for the conference.

During the course of the luncheon, we received from Past Comdr. Joseph Leonard a brief report and outline of the Legion's legislative position on veteran's affairs for the coming year. It is my understanding that a somewhat similar presentation was made before the Committee on Veterans' Affairs today by the national commander of the American Legion, John N. Geiger.

I am confident that most of us are looking with sympathy and acceptance upon the American Legion's presentations for legislative improvements, as we have done in the past.

I believe the Legion is justified in its recommendations for modest enlargements in veterans benefits, particularly as they relate to hospitalization, education, and pensions, with emphasis on its relation to veterans with service-connected disabilities. I have assured Commander Hirsch and his colleagues of my continuing support for their endeavors.

I enjoyed once again the experience of welcoming to Washington the Connecticut department delegates to the American Legion conference. However, I, and in fact, the entire delegation were disappointed because of the absence of one who has contributed so much and so unselfishly not only to the success of these annual conferences but also to the well-being of the Connecticut veterans. I refer of course to my friend, Mr. Thomas W. Byers, of Thomaston, Conn., who is chairman of the Rehabilitation Commission of the American Legion Department of Connecticut. Tom Byers is a patient at the Waterbury Hospital, Waterbury, Conn., and I have today sent to him my best wishes for a swift and complete recovery.

GENERAL LEAVE

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on my special order today.

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

There was no objection.

CHINA, RUSSIA, AND UKRAINE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. DERWINSKI. Mr. Speaker, with the current concentration on Red China and the possible effects of the President's visit to this largest of the captive nations, many significant dimensions of inquiry and thought are unavoidably opened up. Although it has not gained any extensive currency yet, one of the most interesting and potentially explosive dimensions is the interrelationship of China, Russia, and Ukraine, as well as the other captive nations in the imperial complexes of both the U.S.S.R. and Red China.

A survey along this line is presented in the article on "China, Russia, and Ukraine," authored by Dr. Lev E. Dobriansky of Georgetown University. The article appears in the winter issue of the Ukrainian Quarterly, which is a world-

renowned journal of East European and Asian affairs and has been listed by Communist literary circles themselves as one of the dozen high-ranking sources of criticism against Communist institutions. In the context of our growing relations with both Red China and Russian Moscow, the author points to both the Burke resolution, seeking the ouster of Ukraine and Byelorussia from the U.N., and the Zablocki resolution, seeking direct U.S. diplomatic relations with these two non-Russian nations in the U.S.S.R., as starting measures for forward-looking consideration of this China-Russia-Ukraine and multinationalities dimension. Both resolutions are before the Committee on Foreign Affairs and I believe an early consideration of them would prove to be quite fruitful in the light of the larger context involving Red China and Russia in the U.S.S.R. For its attempt at objectivity in the larger context I recommend this article for the careful reading of our Members:

CHINA, RUSSIA, AND UKRAINE

(By Lev E. Dobriansky)

The year 1971 may well go down in history as the turning point—veritably the crisis year—in the foreign policy of the United States as concerns the main sources of threat and danger to our national security. In a real sense, we actually pursue many policies in the foreign area, some of which are economic, others are military, some cultural, and a number specifically tailored to special situations in the Middle East, Southeast Asia, Latin America and so forth.[1] But in the final analysis, however, the nature and character of a country's foreign policy are determined, among other things, by the permanent threats to its prime interests. In the case of the United States, this can only mean at this stage the global threat posed by Soviet Russian imperio-colonialism and to a much lesser degree by revolutionary Chinese Communism. It is with this perspective, focused on Moscow, that 1971 may be significantly recorded as the year of critical change in the continuity of U.S. policy toward the Soviet Union.

Whether some may like it or not, whether many may understand it or not, the sudden interrelationship of factors and elements that emerged in the successive events of this year justify the given hypothesis. Unquestionably, the interrelationship will have to develop more concretely and impressively in subsequent years, but the salient fact is that as we necessarily move more and more into the inner Eurasian context, the interrelationship will unavoidably assume more concrete and impressive characteristics. That the factors of the interrelationship did emerge, no matter how accidentally or superficially, in a year when certain spectacular shifts in policy and stance were taken, surely qualifies that year as the time of commencement of a new policy toward the chief contender, namely Moscow itself. It will take time for many to recognize it as a new policy and, indeed, those responsible for the shifts certainly don't contemplate the unintended result, but in history events and inexorable developments have a way of predetermining courses and shaping the thoughts and attitudes of man. The important point, then, is that as the United States becomes more involved in the inner Eurasian area, primarily mainland China and the USSR, the more these involvements will lead to basic policy changes in relation to the USSR, regardless of present rhetorical pronouncements and projections of our traditional policy toward that empire-state.

The factors and elements referred to arose in the wake of the spectacular announcement last July of President Nixon's trip to Red China. They are related to his forthcoming visit to Moscow. And in different forms they received expression in the course of the entire discussion and debate on the admission of Red China into the U.N. In fact, their appearance and continued reference in the future fully justify the title of this article and all that it implies in terms of progressive impact on the course of U.S. policy. The factors and elements are the deep Sino-Russian conflict, Red Chinese propaganda directed at the captive non-Russian nations in the USSR and against so-called "social imperialism," Russian propaganda against "Han imperialism" in Red China, and the two Slavic nations in the USSR, Ukraine and Byelorussia. To be sure, all this and more seem embryonic and inchoate as far as transient developments go on the global scale. But if we bear in mind the crucial point on U.S. involvement in the inner Eurasian context, this can be viewed as only the beginning of similar things to come. As the writer has emphasized elsewhere, these new developments represent "a confrontation of negotiation, which in this make-believe period of confetti diplomacy is nothing more than the diplomatic dimension of the Cold War as practiced by the Russian totalitarians and the Red Chinese, and accepted in challenge by us."[2] Those who believe that the diplomatic maneuvers of this period are signs of the end of the Cold War have never really understood the meaning and nature of this type of warfare. What we are witnessing now is only another precarious phase of it.

THE SINO-RUSSIAN CONFLICT

Underlying the foremost diplomatic maneuvers of the present is the deep and insoluble Sino-Russian conflict. The causes of this conflict have been widely discussed and etxensively written about for a decade now. They cover the ideological, historical, personal, political and cultural spectrum, but regardless of the weight assigned to each, the reality is one of profound significance for the future. When one soberly considers an estimated $60 billion spent by Moscow over the past decade in defense of USSR territory along the 4000 mile border, its deployment of some forty divisions along this stretch, and the decentralized protective policies of Peking with underground preparations, replacement of nuclear installations, and an accelerated missile program capable in the next two years of launching attacks upon Moscow and Leningrad, the scope and depth of this conflict cannot be minimized. It can lead to a preemptive strike by Moscow and perhaps a prolonged or short war sooner than most of us are given to believe. If, for whatever reason, Moscow fails to undertake this nuclear surgery within the two years, the groundwork would be set for a five-centered nuclear power arrangement in the world—the U.S., Western Europe, the USSR, Red China and certainly a rearmed Japan. An uneasy peace would rest on this five-centered arrangement, but the basic political issues would be magnified more than ever.

Notwithstanding these and other possibilities, the imperial complexes represented by both Red China and the USSR would come under sharper concern and interest among the various powers. If war between the two breaks out, the process would be instantaneous; if the five center distribution of nuclear power evolves, the process may be slower, but the emphasis on political warfare would heighten it nevertheless. As it has been, within the secret precincts of the inner Eurasian domains the past six years have seen considerable propaganda and literary concentration on the imperialist qualities of both Peking and Moscow. Of course, in the fire and cross-fire neither is interested in the real liberation of the respectively dominated peoples and nations. The intent is one of threat aimed at known vulnerabilities. So be it, the fact remains that in the situation of this bilateral conflict increasing prominence is given to the factor of imperio-colonialism within the two systems. As the field of conflict, whether political or military, expands with the involvement of the other power centers, this prominence cannot but soar in both meaning and proportion.

As the writer emphasized in a lengthy paper delivered at a scholarly conference in Taipei in 1970, "For years now Peiping has been condemning Moscow for what it calls 'social' or 'socialist imperialism' and has directed its political warfare efforts toward the numerous non-Russian nations in the USSR."[3] Radio Peking has frequently beamed broadcasts to USSR armed forces in the Far East with the message of Russian exploitation of Lithuania, Ukraine and others. The Red Chinese have also inspired the circulation of pamphlets calling for unified efforts by nationalists and communists in the non-Russian areas to rid themselves of Moscow's domination. The target is much larger for Peking than it is for Moscow. There are more distinctive nations in the USSR than there are in the Peoples Republic of China. Furthermore, percentage-wise and in absolute terms, the non-Russian population is greater in the USSR than the non-Chinese is in the PRC. However, this condition has not deterred Moscow from concentrating on some forty-five to sixty million non-Hans, including Mongolians, Tibets, Manchus, East Turkestani and others. These are regarded as "national regions" of the PRC with a "colonial nature." Their subjection to "forced Sinization" and colonial exploitation is usually underscored.

When we give thought to the expanded field of conflict, we should bear in mind the stance already assumed by the Red Chinese in the United Nations. No sooner had Red China entered the world body that its spokesman lashed out against Moscow along lines described above. The Red Chinese Deputy Foreign Minister Chiao Kuan-hua has several times now brought up Moscow's "socialism in words and imperialism in deeds," and the head of the USSR delegation, Jacob A. Malik, has more than once accused the Red Chinese of pouring out "a flood of slander and monstrous invention against the Soviet Union." The field of political action has expanded to the United Nations, and most of the delegates have never seen any spectacle comparable to this. In concrete form this field will broaden further as Red Chinese participation in the international activity extends itself and assuming the continued reign of Mao Tse-tung and Chou En-lai. Meanwhile Moscow accuses Peking of seeking to cause a world war. As summarized by *Tass*, a recent article in Moscow's Journal of International Affairs holds that Peking "would like to provoke a military conflict between socialism and imperialism and then become the dominant power in a world shattered by war."[4] It further observes, "They have become more flexible and refined, which makes Peking's policy anti-socialist in content as before, insidious and dangerous for the revolutionary movement." In short, anyone opposed to Moscow's aggressive and imperialist policies is anti-socialist by definition.

It is evident now that the type of internecine propaganda waged between the two imperialist powers in the confines of the inner Eurasian complex is at last being aired in the world's forum. If the reaction to it shown by most U.N. delegates and analysts and commentators is any gauge, then it is equally evident that most leaders and opinion-makers in the Free World have been unaware or little appreciated the nature and content of this propaganda conflict. With the lines of communication extending for each of these imperialistic powers in competition, the peculiar content of this propaganda con-

Footnotes at end of article.

flict will become progressively clearer, and the special factors and elements mentioned earlier will become even more prominent. Despite all the evil and disadvantages that attended the unjust ouster of the Republic of China from the U.N. at least this is one enormous gain of international education in having Red China in the U.N. In this particular and essential respect, we are just witnessing the beginning of a development which inevitably will draw the interest and involvements of other powers, including the U.S.

After having surveyed the critical importance of the Sino-Russian conflict for our present diplomatic maneuvers, the alternative possibilities of outcome in the period ahead, and one essential factor in the conflict, it must be borne in mind that from the viewpoint of U.S. national security the prime enemy is not Red China but rather Russia, operating within the framework of the USSR. As in the case of all Red states, both are highly militaristic powers. In both a disproportionate account of the annual gross product is allocated to the military, with a heavier burden in the PRC because of its lower scale of aggregate output. Aside from the heavy costs of nuclear development, about twenty percent of PRC's gross product is absorbed by the armed forces, entailing the 2.5 million in the Peoples Liberation Army and 7 million in the militia and security forces. But all this is patently inferior to the sophisticated and advanced character of USSR's forces, supported by some $60 billion of annual military expenditures out of a gross product five times larger than that of PRC. Indeed, Moscow's rush for strategic weapons superiority over the U.S. has become a matter of profound concern to all interested in the preservation and expansion of freedom. However, the crucial question is what will Moscow do in connection with certain Red Chinese deployment of nuclear missiles in the near future. As pointed out earlier, whatever the decision it won't substantially alter the drift of world interest and involvement in the inner Eurasian complex. Early indications of this were shown in 1971.

UKRAINE AND BYELORUSSIA BEFORE THE INFAMOUS OCTOBER 25

Long before the U.N. debate on the China issue, Ukraine and Byelorussia were injected into the discussion. For example, one columnist writing about the "autonomous province" of Taiwan stated, "It even might eventually provide a basis for Nationalist representation in the UN on the same ground that Byelorussia and the Ukraine are represented along with the Soviet Union."[5] It is little recognized that scores of articles were written on the subject, involving and relating the two Chinas, Russia, Ukraine and Byelorussia. In effect, as thought was given to a place in the U.N. for a Red Chinese representation, whether valid or no, an interrelationship emerged with the USSR, Ukraine and Byelorussia. An utterly false analogy was almost consistently drawn between the so-called two Chinas and Ukraine and Byelorussia, but for our purposes here this is irrelevant. Again, the chief point is the interrelationship which emerged as, in effect, the inner Eurasian context was penetrated.

As the U.N. discussion came about, the interrelationship was repeatedly pinpointed in terms of basic factors though not in validity. In his address to the U.N. General Assembly on October 4, Secretary of State William P. Rogers advanced the two-China policy and maintained that "It would provide representation for the people concerned by those who actually govern them; but it does not divide China into two separate states; after all, we all know Byelorussia and the Ukraine are not separate states. . . ."[6] The logic is somewhat questionable and brings into play the typical American conceptual confusion between state and nation. Excluding for the moment the non-Chinese nations on the mainland, China is a single nation but for the past twenty-two years has been made up of two separate states, states, a free one in the Republic of China and a totalitarian one on the mainland. On the other hand, Ukraine and Byelorussia are admittedly parts of the USSR state, but, in contrast to the "two-Chinas," they are separate nations distinct from others in the USSR, including the Russian one itself. This example should suffice to indicate how much conceptual reconstructing will be needed as we necessarily concern ourselves more with parts of the inner Eurasian complex.

Similar in vein was the argument advanced by U.S. Ambassador Geoge Bush when, in his statement to the U.N. General Assembly, he stated. "It is unavoidable that what we propose should be new because the situation that we are dealing with in October 1971 is unique. But the Charter, which is flexible enough for the representation of Byelrossia, the Ukraine and the USSR is certainly flexible enough to accommodate this situation."[7] This argument of accommodation is sound enough on the basis of the universality rule without invoking the fallacious parallel between "the Chinas" and the two Slavic republics in the USSR. Both Nationalist and Red China fully recognized the illogicality of the widely held analogy. In a Red Chinese publication *Ta Kung Pao*, for example, a commentator named Tu Hsueh-wen wrote, "two China seats in the United Nations would not be similar to three seats for the Soviet Union because those held by Byelorussia and Ukraine belonged to republics that are part of a confederation. . . ."[8] This, of course, is a more accurate interpretation than that above, but even here, too, it does not hit the mark. Forced though it be, the USSR is a federal union and not a confederation, which would imply real limited sovereignty for the states involved. Comments from spokesmen in the Republic of China have run along the same line.

In the aftermath of the infamous October 25, comments in this area continued to abound; many, as we shall see, with additional recommendations and strictures. The day following, in his remarks on the Senate floor, Senator Fulbright of Arkansas, who is the chairman of the Senate Foreign Relations Committee, had this to say: "I support the President's policy, and I hope that the Chinese find a way to accommodate some kind of system, such as the Russians have with regard to the Ukraine and Byelorussia. But that is another question."[9] Indeed it is. Is the Senator suggesting the subjugation of the Republic of China to the domination of Peking just as Ukraine and Byelorussia are under the rule of Moscow? The difference is one between freedom and totalitarian tyranny. For a choice piece of journalistic foolery, the following is outstanding and unsurpassed: "There remain U.N. situations even less related to reality than calling Formosa China. The recognition, with voting rights, delegations and international bureaucrats, of Byelorussia and the Ukraine is the exact equivalent of recognizing New Jersey and Illinois as independent nations, with the one difference that New Jersey and Illinois might reasonably be expected to vote against the United States once in a while just for the hell of it."[10] Aside from the specious parallel drawn, one wonders how the writer would treat Poland, Czechoslovakia, Bulgaria and others in Eastern Europe whose votes in the U.N. consistently coincide with those of the USSR.

THE AMERICAN REACTION TO THE INFAMOUS 25TH

The expulsion of the Republic of China from the U.N. is a monumental blemish on the world organization. The only way this otherwise ineradicable blemish can be eradicated is by enforcing the rule of universality and at some time in the future reinstate ROC in the U.N. With Red China in the world body this, to say the least, will be most difficult and will depend on shifting circumstances. Meanwhile ROC is assessing its situation and is concerned with the future flow of foreign investments to sustain its phenomenal growth. It is also concerned with its military defense and the fear of any possible adverse deal between Washington and Peking. Knowing the determination and courage of the free Chinese, this writer has no doubt that ROC will continue to brilliantly symbolize progress and freedom in Asia. As a matter of fact, the grave injustice done to it in the U.N. can be converted into a powerful political instrument for the good. It has been suggested by the writer that ROC initiate A Day of International Shame on October 25, 1972 for what transpired on that date the year before.

Its annual observance would spotlight, among other things, the growing evidence of Red China's commitment to world revolution. Before and after its U.N. admission, Peking abundantly reiterated this firm commitment—"To make use of contradictions, win over the many, oppose the few and crush our enemies one by one."[11] Among the contradictions are "imperialism" represented notably by the U.S. and the "social-imperialism" of the USSR.

If the suggested observance were initiated, the American people would rally strongly behind it on the basis of the popular American reaction to the infamous "25th." Put simply, as all evidence showed, widespread revulsion swept the country. This feeling was poignantly registered in the U.S. Congress where demands were raised along a spectrum of being more effective in the U.N. to the pole of withdrawing from it. Day after day the CONGRESSIONAL RECORD was replete with statements and addresses calling for action to redress the day of international infamy. It is not generally realized that by the middle of October over 336 members of the House of Representatives were on record opposing ROC's expulsion from the U.N. and who are closer and more sensitive to the American people than those who must run for re-election every two years?

A quick run-down shows one Senator supporting the abolition or substantial reduction of our foreign aid to countries who voted for the decisive Albanian resolution, such as India receiving 419.7 million in '72 FY, Pakistan at 225.5 m., Turkey at 242.5 m. and so forth.[12] Realistically, on this score a measure of arm-twisting and hard politics should have been applied in the U.N. before the vote. Senator Byrd of West Virginia reacted in this way: "This reprehensive slap at a country which has consistently supported the U.N. since its inception can have no other effect than the further weakening of the U.N. itself."[13] He called for a reexamination of U.S. contributions to the U.N. Senator Fong of Hawaii let it be known that 71 Senators signed a statement supporting U.N. membership for the Republic of China on Taiwan, and all 71 are given.[14] Meanwhile, Senator Fannin of Arizona viewed the expulsion as shocking and emphasized "the need for a complete reevaluation of our participation in the United Nations." His colleague, Senator Goldwater, called for U.S. withdrawal from the U.N. Senator Symington of Missouri, however, saw fit to insert into the RECORD an excellent analysis of the debacle in the U.N., which begin with the observation—"For the first time in UN history, the U.S. suffered a humiliating defeat on an issue to which it had committed its full power and prestige"—and recounts the shocking "loss of the traditional allies of the U.S.," the impact of the Nixon bombshell in July, and the loss of "additional credibility" when Kissinger visited Peking during the final days of the debate and the vote.

On the House side the atmosphere of some form of retaliation was also present, in fact more so. Representative Fisher saw the "25th" as "a black day in the history of the United

Footnotes at end of article.

Nations" and recommended a reexamination of our role.[15] Congressman Hall pointed out that the expulsion "not only flouted the spirit of the world body, but was in fact contrary to the provisions of its own charter," and raised the question "as to whether or not that organization should be permitted to survive, or at least, should this Nation continue to be a party to its deliberations?"[16] In the view of Representative Pucinski of Illinois the action was a "monumental disaster to American foreign policy," and he expressed the hope that "the President will exercise America's veto power in denying Communist China a seat on the United Nations Security Council even though she has been admitted to membership in the General Assembly."[17] The Honorable Robert Price of Texas bemoaned the U.N. action and urged that we start "trimming our outlays to the decrepit, misguided, and myopic United Nations."[18] In short, these few examples are sufficient to indicate the feeling and tenor of thought dominant in the Congress. The *Record* of October 26 alone is a volume in itself of the American reaction to the grave injustice done to the Republic of China.

Significantly, the posture and sentiments in the Congress were during this period strongly and articulately expressed in the United Nations by the Honorable Edward J. Derwinski of Illinois, serving on the U.S. Delegation to the U.N. and as a U.S. Delegate to the General Assembly. On the so-called China issue the Congressman was forceful and direct concerning the risks and dangers involved in admitting Red China without the continued membership of the Republic of China. In fact, it appears that he was far more outspoken on this than other members of the U.S. delegation. But the Congressman went even beyond this and bore on the interrelationship posed in this article by his clashes with the Russians and their Ukrainian and Byelorussian puppets in the U.N. In the clearest language ever, he accused Moscow of practicing classical imperialism and raised the issue of Russian control of the Baltic States and Eastern Europe generally, depicting Russian policy as "being the newest form of colonialism."[19] As he stated it, "At this point I want to emphasize that the United States *unequivocally* rejects the doctrine of 'limited sovereignty.' It is a form of *imperialism and colonialism* that no free man can condone." At the conclusion of his address, he emphasized, "then even though I made reference to the Baltic States, Lithuania, Latvia and Estonia, I should reemphasize that there are many other non-Russian states within the U.S.S.R. where the people are deprived of legitimate self-determination."

A thoughtful consideration of these various trends of convictions, sentiments and ideas leads again to the basic concept of intercharge and interrelationship as concerns the inner Eurasian complex. In their individual expressions they appear isolated, directly linear and seemingly irrelevant to other factors and elements. In reality, they are fundamentally interrelated and can be best perceived and understood through a formal captive nations analysis, which presupposes history and logical structure.[20] It is no wonder, therefore, that out of all this discussion, debate and contention about "the two-Chinas," the ouster of ROC from the U.N., the classical imperialism of Moscow and the like, two pertinent and interesting resolutions have emerged in Congress. In the second session of the 92d Congress they will be up for consideration and should provide a new additional episode to the events begun in 1971.

THE BURKE AND ZABLOCKI RESOLUTIONS

The two congressional resolutions stemming from all this deal with Ukraine and Byelorussia. The first resolution was submitted on November 9 by Congressman J. Herbert Burke of Florida, calling for the expulsion of Ukraine and Byelorussia from the U.N. The other is sponsored by Congressman Clement J. Zablocki, high-ranking member on the House Foreign Affairs Committee, and resolves to establish diplomatic relations between the United States and both Ukraine and Byelorussia. The resolution was submitted on December 2. The submission of the Burke resolution was preceded by a columnist's commentary which, in favoring the measure, has all the earmarks of inaccuracy concerning this intricate subject. For instance, with reference to Ukraine and Byelorussia as "two allegedly independent states," he writes that they "have been a part of the Soviet Union since 1918."[21] The Soviet Union wasn't even in existence in 1918. However, to complicate matters, he makes the sound point about the other captive nations in Eastern Europe being "hardly sovereign states."

It is not our purpose here to evaluate in any detail the comparative merits of the two resolutions. This may come later in the course of hearings on the measures. In support of the thesis set forth here on inevitable interrelationship of factors and elements, which is so objectively though not subjectively in the minds of analysts, it is adequate enough at this stage to show this emerging interrelationship, present the texts of the two resolutions, and point out a few interesting aspects of this new episode. The Burke resolution, H. Con. Res. 449, reads as follows:

"Whereas the Charter of the United Nations specifies that the Organization shall be composed of "states"; and

Whereas the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic are not "states" incorporating sovereignty and independence, the criteria for all other nation-states in the United Nations; and

Whereas the above noted "Republics" have not established, nor maintained separate, sovereign diplomatic relations with any other sovereign state since 1920: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the House of Representatives that the President, acting through the United States delegation to the United Nations, should take such steps as may be necessary to bring before the General Assembly of the United Nations the question of the eligibility of the Byelorussian Soviet Social Republic and the Ukrainian Soviet Socialist Republic for Membership in the United Nations and seek their expulsion."

When he introduced the resolution, Congressman Burke addressed the House and at the very outset declared, "Mr. Speaker, the Congress and the people of America have been deeply distressed by the expulsion of Nationalist China from the United Nations. Official and popular support for the United Nations has fallen in the wake of the ouster of Taiwan."[22] He further stressed, "Since Byelorussia and the Ukraine, like Nationalist China, were charter members of the U.N., they too can be expelled by the same method as was used to eliminate the Nationalist Chinese." Thus, the resolution which has gained the co-sponsorship of about sixty members. The main arguments offered in behalf of it are subject to serious question and doubtlessly will be successfully countered in the course of hearings on it. Surely, the hearings could prove quite productive in clearing up numerous misunderstandings and fallacies surrounding the subject. For example, one sponsor states, "Byelorussia and the Ukraine are two of the 16 republics that make up the U.S.S.R."[23] The fact is that for well over a decade now there have been 15 republics in the U.S.S.R. Another sponsor observes, "It is a well-known fact, that Soviet claims notwithstanding, neither the Ukraine nor Byelorussia has been sovereign since the Communist takeover in 1918, neither has diplomatic relations with any other nation in the world, nor does either of these provinces conduct foreign relations separate from those of the U.S.S.R.'s."[24]

The first part is historically incorrect and the last two parts require a move in behalf of peace.

The Zablocki resolution, H.J. Res. 994, represents such a move. It reads as follows:

"Whereas, in the words of the President, 'in our view, every nation in Europe has the sovereign right to conduct independent policies, and to be our friend without being anyone else's enemy or being treated as such. . . . We are responsive, and other countries in Eastern Europe who desire better relations with us will find us responsive as well'; and

Whereas a distinct continuity of policy and objective has been expressed by our Presidents in terms of "people-to-people relations" and "bridges of understanding with the peoples of Eastern Europe"; and

Whereas in the interest of world peace it is clearly necessary to further our understanding of and relations with all aspiring peoples and nations, which includes the forty-five million Ukrainian nation—the largest non-Russian nation both in the Union of Soviet Socialist Republics and in Eastern Europe—and the ten million Byelorussian nation; and

Whereas the Government of the United States extends de facto recognition in the United Nations and cognate international organizations by recognizing the delegations selected to represent the Ukrainian Soviet Socialist Republic and the Byelorussion Soviet Socialist Republic as accepted nations of the United Natons and in these various organizations; and

Whereas respecting the sovereignty of these two non-Russian nations the Government of the Soviet Union strongly insisted upon the inclusion of these nations as original charter members of the United Nations; and

Whereas the sovereignty of the people of these two national Republics is intimated in the Constitution of the Union of Soviet Socialist Republics which provides: "The right freely to secede from the Union of Soviet Socialist Republics is reserved to every Union Republic;" and

Whereas said Union of Soviet Socialist Republics Constitution specifies that each Union Republic has the right to enter into direct relations with foreign states and to conclude agreements and exchange representatives with them; and

Whereas said constitution legally reflects further the sovereign wills of these two non-Russian nations by providing that each Republic has the right to determine "the manner of organizing the Republic's military formation"; and

Whereas the distinctive national flags, anthems, and emblems of state maintained by the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic are proffered to manifest symbolically the sovereignty and independence of these states; and

Whereas the Moscow Government in the Russian Soviet Federative Socialist Republic continually claims that these two non-Russian nations are independent and sovereign to develop their statehood and foreign relations; and

Whereas the people of the United States indirectly recognize the sovereignty of the Ukrainian and Byelorussian nations, which is in harmony with the ideas set forth in the Declaration of Independence of the United States, and, therefore, we stand ready to render to these nations and other peoples in the Soviet Union any assistance for the strengthening of bonds of friendship and good will; and

Footnotes at end of article.

Whereas it is plainly incongruous from every viewpoint to rightly maintain recognition by this Government of the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic in the United Nations without, in the spirit and principles of the United Nations Charter itself, realizing the peace-strengthening opportunity to establish direct diplomatic concourse with their respective capitals of Kiev and Minsk: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the Government of the United States in support of its policy of negotiation, peace, and understanding among nations should proceed to establish direct diplomatic relations with the Governments of the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic, and in the creation of posts of representation in the capitals of Kiev and Minsk, respectively, consistent with diplomatic procedure in such matters."

A careful reading of the two resolutions will show that no fundamental contradiction exists between them. In fact, the passage of one could possibly more than justify action on the other. In any case their consideration cannot but produce many fruitful results, both educational and political. Most important, however, is the growing interrelationship of factors and elements as we move into the inner Eurasian area. The future will be punctuated with this objectivity—based interrelationship.

FOOTNOTES

[1] To appreciate this fact, one need just read *Foreign Policy, Message from The President of the United States.* House Document No. 92–53, 1971.

[2] Lev E. Dobriansky. "Free China's Opportunity," *The Ukrainian Quarterly,* Autumn 1971, p. 290.

[3] See *The Geographical Expression of Mainland China: The Largest Captive Nation,* Congressional Record reprint, USGPO, July 1971.

[4] *Reuters,* Moscow, USSR, November 4, 1971.

[5] Crosby S. Noyes. "U.S. Facing the Inevitable on U.N. China Seat," *The Evening Star,* Washington, D.C., May 14, 1971.

[6] *Address.* U.S. Mission to the U.N. General Assembly, New York, October 4, 1971.

[7] *Statement.* October 18, 1971.

[8] Quoted in Tillman Durdin. "China Reds Firm on Taiwan Stand." *The New York Times,* October 13, 1971.

[9] CONGRESSIONAL RECORD, vol. 117, pt. 19, p. 37536.

[10] Frank Getlein. "It's Time to Act Like Grown-Ups," *The Evening Star,* Washington, D.C., November 4, 1971.

[11] "Unite the People, Defeat the Enemy—A Study of *On Policy," Red Flag,* Peking, September 1971.

[12] CONGRESSIONAL RECORD, vol. 117, pt. 19, p. 37536.

[13] *Ibid.,* p. S16764.

[14] "United Nations Membership for Republic of China on Taiwan," CONGRESSIONAL RECORD, vol. 117, pt. 19, p. 37660.

[15] "The United States Should Examine Its Continued Membership in the U.N.," *Ibid.* October 26, 1971, p. 37456.

[16] *Ibid.,* p. 37463.

[17] *Ibid.,* pp. 37466–37467.

[18] *Ibid.,* p. 37614.

[19] *Address in the U.N.* Release, November 18, 1971.

[20] See "The Captive Nations Scorecard," *The WACL Bulletin,* Seoul, Korea, September–October 1971.

[21] David Lawrence. "Rep. Burke's Impending Resolution," *The Evening Star,* Washington, D.C., November 3, 1971.

[22] "Resolution Calling For The Expulsion of Byelorussia and The Ukraine From The United Nations," CONGRESSIONAL RECORD, vol. 117, pt. 31, p. 40084.

[23] Hon. William S. Broomfield, "Resolution to Expel Byelorussia and the Ukraine from the United Nations," CONGRESSIONAL RECORD, vol. 117, pt. 33, p. 43113.

[24] Hon. Robert Price. "Price Urges U.N. Expulsion of Byelorussia and the Ukraine," CONGRESSIONAL RECORD, vol. 117, pt. 31, p. 40260.

MODEL COUNTY DEMONSTRATION PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. CONTE) is recognized for 15 minutes.

Mr. CONTE. Mr. Speaker, I am today introducing legislation, as is Senator KENNEDY in the Senate, which would establish a model county demonstration program to be set up in Berkshire County. Under the provisions of our bill, the Council on Environmental Quality would be authorized to supervise a 3-year, $3 million program designed to rejuvenate county government and help solve on a countywide basis the ecological problems faced by its inhabitants.

The natural beauty and serenity of the Berkshire area is a source of pride to local residents and attracts thousands of tourists annually. To preserve that natural beauty, I feel that comprehensive and demonstrative steps must be taken to insure that its land, air, and wildlife will for years to come be protected from growing environmental problems. Under this act, Berkshire County will provide an ideal testing ground. And if the program is successful, it will serve as a model for the rest of the Nation.

The problems of the environment transcend Federal, State, and local government lines. We must abandon fruitless debate in arguing which particular government level should be required to alleviate a particular problem. Our energies must be concentrated instead on a search for the most efficient and effective method in dealing with the situation as a whole.

To insure the success of this project, cooperation from all levels of government will be needed. Thus Federal moneys will be granted only after the county has established a project commission which will adequately set the priorities and provide assurances about the plans and directions that the project commission will put in motion. This in turn may require State enabling legislation. The project commission, which will have complete control of county environmental decisions, will have a representative from each town or municipality in the county, so that local governments will not be excluded from the decisionmaking process. Experts in county government and representatives from environmental groups and relevant planning agencies will also be included. The commission will file annual reports to indicate its progress.

The physical layout of Berkshire County is highly conducive to intertown cooperation. When people share common geography and interests, they should also share in the responsibility for solving common problems. I am convinced that the people of Berkshire County are willing to work together in this common end.

With widespread ecological problems that affect large numbers of people, it is necessary to institute bold new ideas that hold out the promise of effective solutions. This Project Demonstration Act, I believe, is a bold new concept that deserves a thorough testing. Its value, not only for Berkshire County, but for the rest of the Nation, deserves its prompt enactment.

Thank you, Mr. Speaker.

THE DANGERS IN HIGH PRICE SUPPORTS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

Mr. FINDLEY. Mr. Speaker, for commonsense and straight reasoning on one of the most difficult aspects of American economic life, the comments set forth in the editorial column of the February 19 Prairie Farmer magazine are truly outstanding and, at the same time, refreshing.

The editor deals forthrightly and in plain English with the dangers involved if the Congress tries once more the long discredited route of attempting to price commodities at levels too high for the international market system.

The editorial is especially timely and appropriate in its analysis of the Smith-Melcher bill which recently passed the House but, fortunately, was rejected by the Senate Committee on Agriculture and Forestry. The Prairie Farmer is edited by James C. Thomson. Here is the text of the editorial:

WOULD HIGHER SUPPORTS SOLVE INCOME PROBLEM?

Many farmers believe that their economic troubles would dissolve if corn were priced "at a reasonable level." It depends on whom you talk to, but the "reasonable" range mentioned most often lies between $1.30 and $2 a bushel.

Among NFO and Farmers Union leaders a reasonable price is 100% of parity. For corn that is about $1.90. "Why should we take less?" they ask.

So what are the prospects of corn prices reaching $1.90? Dim indeed. Higher prices are possible, but the tax cost in higher subsidies and loss of personal freedom may be more than some people may be willing to pay.

Higher corn prices can be attained thru (1) higher government subsidies, (2) mandatory restrictions on production, (3) voluntary production cuts by farmers, (4) the imposition of higher food prices on consumers, and/or (5) the results of natural disaster like blight or drought.

But let's face the facts. Urban resistance to increases in farm subsidies is becoming more formidable. Farmers have long had an aversion to compulsory programs, and the record of farmer compliance with voluntary programs isn't good unless there's a healthy incentive payment.

Consumers are squawking now over moderate increases in meat prices. Natural disaster is a possibility, but rare, and its effect on price is minimized by the size and diversity of the U.S. agricultural plant.

But let's suppose that prices were raised to satisfy the demand for even 90% of parity for corn or $1.71 a bushel. What then?

Such a move would add at least $2 billion to the cost of the current feed grain programs already nearing $4 billion. With the

Nixon administration entertaining a $40-billion deficit, Congress will be reluctant to expand it.

Many of us would like to see the struggling family farmer helped. But who would really get the help? That's easy—the man who sold the most corn.

Here's what John A. Schnittker, former undersecretary of agriculture in the Johnson-Freeman administration, had to say about the Smith-Melcher bill's proposal to raise the loan levels for wheat and feed grains.

"For feed grains, about 25% of the benefits would go to the largest 5% of all feed grain farmers; some 60% of the benefits would go to the largest 20%; and the smallest (poorest) 40% of the farmers would get 3% to 4% of the benefits."

With the price set at $1.71 a bushel the incentive to produce more corn would be so great that strict compulsory curbs on production would have to be maintained.

Production curbs and high corn prices would price us out of export markets which now take one acre in 4 of the product of Midwest farms. This could be offset with heavy export subsidies but in the face of growing taxpayer hostility.

Corn at $1.71 would increase the cost of eggs, meat, and dairy products. It would also stimulate greater feed grain production overseas. Other nations would soon be pounding on our doors with lower-priced food products they would want to sell to us.

If we raised our tariffs there would be retaliation and international good will and trade between nations could be set back for years.

Numerous other problems would arise, like the capitalization of price into the value of farm land. This would make it even more difficult for young men to enter farming.

In relation to costs, investment, management, and standards of living in town, corn prices are too low. But prices set too high can be as bad as prices that fall too low.

If our goal is to single out small farmers with income problems for the purpose of improving their lot in life, we aren't getting the job done.

It is clear that the small farmer has a separate problem only distantly related to price and production. If he is to be helped, it must be within the context of age, need for credit, ability to survive, whether or not he has an off-farm job, and whether or not his survival has sociological values in population dispersal and political stability.

We think it has, but the approach of the people who mean well thru price pegging isn't the way to get the job done. It is time we searched for something more productive.

CONGRESSMAN WHALEN DISCUSSES THE BUSING ISSUE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 15 minutes.

Mr. WHALEN. Mr. Speaker, this week the Judiciary Committee of the House of Representatives begins consideration of various proposals relating to the busing of schoolchildren. In view of the mounting national interest in this subject, Chairman CELLER is to be commended for scheduling these hearings.

Busing, of course, is a means to an end, not an end in itself. Thus, among other reasons, busing has been implemented to provide for the health and safety of school youngsters—Ohio law requires that transportation be provided children residing more than 3 miles from school—or to achieve the economies of school consolidation. The Senate Select Committee on Equal Educational Opportunities estimates that 40 percent of our children—65 percent when those riding public transportation are included—ride to school every day in the furtherance of these objectives.

Busing designed to effect child safety or school consolidation has not been questioned. The current controversy, then, centers on the goal of desegregation for which some schoolchildren are now being bused. Therefore, my comments shall be directed to the question of school desegregation rather than busing, per se.

1. DE JURE SCHOOL SEGREGATION

Both the Federal courts and the U.S. Congress have acted to curb de jure segregation of schoolchildren. What is de jure segregation? Simply stated, it is pupil segregation stemming from State law and/or local school board policy which provides for two separate school systems—one for white youngsters, the other for black children.

In 1954 the Supreme Court, in the case of Brown against Board of Education, ruled that dual school system must be dismantled. The following is the essence of that decision:

We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregated public schools deprive these plaintiffs of the equal protection of the law.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education in our democratic society . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

The Court summarized:

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought, are by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

Since the 1954 decision, numerous de jure school segregation cases have been decided by the Supreme Court and lower courts. In each instance, this type of segregation has been ruled unconstitutional. Last spring, Chief Justice Warren Burger, explaining the unanimous decision of the Supreme Court in Board of Education against Swann, wrote:

Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system.

Ten years after the Brown against Board of Education decision, Congress considered and passed the Civil Rights Act of 1964. While I was not a Member of the House of Representatives that year, I most certainly would have voted for this measure.

In the 1964 act, Congress prescribed a means whereby relief from alleged civil rights violations could be sought through the executive branch of Government—specifically, the Attorney General. In fact, Congress echoed the words of the Court in section 407(a)(1) of the act by referring to those students who "are being deprived by a school board of the equal protection of the law."

The 1964 act, in title VI, also stated that—

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Incidentally, it is under the authority of title VI that HEW officials have reviewed the operation of the Dayton schools.

In summary, authority to order the termination of de jure school segregation is derived from the 14th amendment and the Civil Rights Act of 1964. Busing, as a means of attaining this objective, is, therefore, both constitutionally and statutorily sanctioned.

2. DE FACTO SCHOOL SEGREGATION

While there has been complete consistency in the attitudes of the courts and the Congress regarding the necessity of abolishing de jure school segregation, there has been ambivalence in matters regarding de facto school segregation. What is de facto school segregation? In instances of de facto segregation, individual schools are attended either by a predominance of black or white students. This segregation, however, does not result from State law or school board policy. Rather, it stems from neighborhood housing patterns.

Several lower courts—both State and Federal—have held or indicated that local school districts have an obligation to correct de facto school segregation. Others have ruled that there is no obligation to remedy the effects of de facto school segregation. In still other instances, courts have declined to become involved in cases of de facto school segregation on the premise that nothing in the 14th amendment forbids State corrective action.

Incidentally, when lower court de facto school segregation rulings have been appealed to the Supreme Court, this Court, until recently, has refused jurisdiction. However, in December the Supreme Court accepted a case involving the Denver schools. In this case, the lower court held that there is some obligation to correct de facto school segregation. This ruling was reversed by the court of appeals and, as stated previously, is now before the Supreme Court. Consequently, there is a possibility that the Nation's

highest court will rule on this aspect of school segregation some time this year.

Like the Supreme Court, Congress has confined its jurisdiction to situations of de jure school segregation. This was made clear when the Congress passed the aforementioned Civil Rights Act of 1964. In section 407(a)(2) of that act, Congress stated that—

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.

It should be noted that the use of the phrase "to achieve racial balance" in this act is interpreted to mean "to end de facto segregation."

To summarize, at present there is no Federal law nor is there an interpretation of the Constitution by the Supreme Court which requires the elimination of de facto school segregation.

3. PROPOSED CONSTITUTIONAL AMENDMENT

In the last several years, so-called anti-busing constitutional amendments have been introduced both in the Senate and the House of Representatives. The proposal which presently is receiving the widest attention both in and out of Congress is that of Congressman LENT—House Joint Resolution 620. The Lent amendment states that—

> No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

I have given a great deal of study to this amendment and have concluded that, should it reach the House floor, I shall oppose it. Two factors underlie this decision. First, I agree with our Vice President, SPIRO AGNEW, who stated on February 14, that a constitutional amendment "fuzzes and obfuscates the entire issue." Or, as Prof. Alexander M. Bickel, a consultant to President Nixon, states, the Lent proposal would "trivialize" the Constitution.

Second, a close examination of this amendment reveals that it not only outlaws busing but every other means which could be used to assign students on the basis of race. Thus, de jure school segregation, which already has been struck down by Congress and the courts, could no longer be corrected. The impact of the Lent amendment, therefore, goes far beyond what it purports to accomplish.

4. LEGISLATIVE ATTENTION TO PROBLEMS OF EDUCATION

In my opinion, the legislative branch no longer can deal with educational problems in a piecemeal fashion, leaving much of the work to the courts. Congress must accept its responsibility and be a meaningful partner in solving the Nation's educational problems. Consequently, I believe we should address ourselves, among other issues, to the question of what should be done with respect to de facto school segregation.

Because de facto school segregation must be analyzed on a case by case basis—community by community—Congress can only establish broad policy guidelines. To this end, I advocate Federal statutes embodying the following provisions:

First, HEW would be authorized to entertain citizen complaints that neighborhood housing patterns have been involuntary due to past violations of their constitutionally guaranteed rights by such means as job discrimination and restrictive housing practices; and that the quality of education in their neighborhood is below community standards. Here the fundamental question, of course, is whether public moneys—Federal, State, and local—should be used to perpetuate the effects of involuntary housing segregation.

Second, HEW would be granted the authority to investigate these allegations.

Third, if the allegations were confirmed, HEW would be permitted to require the State board of education to submit a plan which would achieve within a reasonable period of time—5 years, for example—a desegregated quality educational system for the community.

Fourth, if the State plan involves busing, it would provide that such transportation be made available only when the time or distance of travel is not so great as to risk the health of the children or to impinge significantly on the educational process.

Fifth, Congress should estimate each year the cost of school desegregation programs and provide sufficient funds to the States and local school districts to cover all such costs.

Of course, the enactment of the above policies would not affect the jurisdiction already granted the Department of Justice and HEW under the 1964 Civil Rights Act.

5. CONCLUSION

As the foregoing suggests, busing is an extremely complex question. I felt, therefore, that the preceding background information is essential to an understanding of this issue.

In the light of these facts, the following is a summary of my views as they relate to busing.

First, I oppose any proposal whose effect is to repeal the 14th amendment and/or rescind the Civil Rights Act of 1964.

Second, I do not oppose busing when its objective is to:

Provide for the health and safety of schoolchildren—such as Ohio's 3-mile law;

Attain consolidation of school districts with its resultant economies;

End instances of deliberate—de jure—school segregation; and

Improve the quality of education for those children who reside in involuntarily established neighborhoods.

Third, I do oppose busing which, in seeking to achieve the above goals, does so in an unreasonable manner which endangers health or degrades the quality of education throughout the community.

Fourth, I favor Federal legislation which would:

Create procedures which would erase the educational inequities caused by the establishment of involuntarily segregated neighborhoods;

Delineate the parameters of "reasonable"—or "unreasonable"—busing plans—for instance, busing children 50 miles in each direction is eminently unreasonable.

Provide funds to the State and local school boards to cover the costs of desegregation efforts.

In closing, I would like to reemphasize that busing is a means to an end. The end—educational quality for every child in this country—is one, I am sure, all Americans share. Let us then, on that common ground, work together to find the best means of insuring its fulfillment for future generations of children whatever their color and wherever they live.

ILLEGAL DRUG TRAFFIC

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS), is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, during the congressional recess between the first and second sessions of the 92d Congress, I had the opportunity to investigate firsthand some of the massive problems our Nation faces in illegal drug traffic. I have previously praised the Government of Turkey for taking steps which may cut off the supply of opium from that country, a source which has been providing as high as 80 percent of the heroin traffic into the United States. But even a cursory investigation outside the boundaries of Turkey jolts one back to the realization that destroying illicit drug traffic is a problem to be solved only by the whole family of nations, not by one or two countries. Even if the opium supply of Turkey is completely dried up, there is a dangerous possibility that opium production will merely shift elsewhere, such as to Afghanistan, Iran, Burma, or Laos.

How do we obtain this cooperation by the entire family of nations? Coercion, such as cutting off American foreign aid, may help, but it does not appear to be the answer in all cases. There are some countries, such as Burma, where U.S. foreign aid is not considered very vital, and others, such as Laos and Afghanistan, where the government has little or no administrative control over the opium production areas. We must convince all countries of the great menace which narcotic addiction poses to all the world. There are countries which have no serious drug problem, but these same countries may and probably will face one next year or in 5 years or in 10 years.

This pestilence has the potential of spreading everywhere, and it should take very little pursuasion to convince all countries that narcotics cannot be regarded as just an American problem. The supply of opium can be obliterated worldwide through the joining together of all nations in the common fight. Until the supply disappears, it looks as if the problem will remain.

The brilliance of American technology and the genius of the American scientific community should be put to use here in the United States and abroad to aid in obliterating the supply of drugs and in detecting the drug traffic. High altitude photographic and satellite surveillance techniques, electronic sensors, chemical and low grade radioactive tracer elements, advanced defoliation techniques,

fleets of helicopters, light aircraft and high speed boats, and highly trained dogs must be put to use in the drug prevention campaign all over the world.

I have spoken on previous occasions about attacking the supply of drugs, about decreasing importation of drugs, and of curtailing drug traffic throughout the world, and this is extremely important. But we must also continue to wrestle with the problem of demand for narcotics. We must increase Federal, State, and local efforts to support school and college information programs as well as radio and television spots, increase traveling appearances by former addicts, send more drug mobiles to residential areas, increase the number and quality of treatment centers, and increase the number of confidential therapeutic phone lines available to the addict. We must never relent in the effort to inform children and parents alike of the dangers of drug addiction.

The problem is a massive, multifaceted one, but it is one which can be solved if it is given a high priority by governments and by citizens throughout the world. America has faced great problems before and solved them. As President Nixon has stated:

Every day we lose compounds the tragedy which drugs inflict on individual Americans.

We must not delay.

TAKE PRIDE IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's pioneers of progress and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

Charles Townes of the United States devised the first laser in 1960.

COMPREHENSIVE MANPOWER AND EMPLOYMENT ACT OF 1972

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. VEYSEY) is recognized for 5 minutes.

Mr. VEYSEY. Mr. Speaker, I have today introduced the Comprehensive Manpower and Employment Act of 1972 on behalf of the Committee on Human Resources of the National Governors' Conference.

As we near the end of hearings on comprehensive manpower legislation, I feel it is proper that the proposal of our distinguished Governors concerning this vital area of legislative concern should be presented. Tomorrow, Governor John A. Love, of Colorado, will testify on behalf of the National Governors' Conference before the Select Subcommittee on Labor. I am pleased to introduce this bill on behalf of the Governors so that the complete legislative proposal may be before the subcommittee during Governor Love's testimony and during markup of comprehensive manpower legislation.

The bill I have introduced provides for $3.25 billion for fiscal 1973 and $5 billion for the next 2 succeeding fiscal years. It provides for a complete decategorization of manpower programs, encompasses public service employment, and provides for revenue sharing through State and local manpower sponsors. In addition to comprehensive, flexible programs to be developed on the State and local level, the bill provides for special Federal responsibilities in the areas of technical assistance, research and development, labor market information, and national computerized job banks. While the bill contains substantial provisions for continuing evaluation of programs on the local, State, and Federal level, as my colleagues are aware I am personally devoted to strong, effective evaluation. It is my intent, as comprehensive manpower legislation moves into markup stage, to submit additional provisions to strengthen the requirements for continuing evaluation of program effectiveness.

I urge my colleagues to examine this bill and to take an active interest in the most vital area of manpower needs.

ECONOMIC DEVELOPMENT HIGHWAYS

The SPEAKER. Under a previous order of the House, the gentleman from Montana (Mr. SHOUP) is recognized for 10 minutes.

Mr. SHOUP. Mr. Speaker, it should be understood that when one talks of economic development, one is talking about a relative problem. We can have economic overdevelopment and economic underdevelopment, such as exists in some countries in Africa. In both cases, the symptoms, at least, are the same: Pools of unemployment, low per capita income, low productivity and inefficient use of men, money, and materials.

Well, how does one go about preparing a reasonable program for economic development for an area?

One should not run willy-nilly after any type of economic activity, just for the sake of an added payroll. For, in the long run, an added payroll may mean far greater proportional outlays for municipal goods and services, such as schools, fire and police protection, than the added payroll might bring into the area. Furthermore, one should not run willy-nilly to add to the population per se, just for the sake of saying that X county, by gosh, is the fastest-growing county in the State or Nation. In some instances, and I know this sounds like political heresy, it might be well for an area to encourage the loss of population.

A complete inventory and a honest appraisal of all factors are the key words for a reasonable economic development program.

An inventory should include such things as both actual and potential. This inventory should include such things as capital resources available, types of industry, population, labor force, numbers of economic enterprises, wage rates and skill levels. With this inventory you must then go about the process of deciding which resources, both actual and potential, does your area have compared with other areas to make it uniquely qualified to attract an economic activity to it. These potential economic activities should be listed in descending order of priority, always bearing in mind both the long-term and short-term assets and liabilities of each.

Then the strategy of concentration of the resources available to lure these economic activities should be utilized. For example, if you think after all comparisons of assets and liabilities, that your area is better able to produce a cheap, serviceable, presentable widget than most other areas, you should concentrate an all-out effort through such devices as tax incentives, training programs, donations of buildings and equipment—always bearing in mind that these are part of the costs and must be balanced against the income to be produced by this potential economic activity—to encourage this particular economic activity to locate in your area. If unable to achieve this, concentrate on the next economic activity on your priority list.

In this country and others throughout the world, economic development has in many cases depended on the availability of good highways.

Because of this important fact, I now wish to raise several important questions concerning the economic role of highways primarily in the more rural, less developed areas of our Nation.

How will new or improved highways alter the economic mix? Who gains? Who loses? How much? What ought to be done about the losses? What should be done about the gains? Obviously, these economic and economic-related consequences are not simple, and a cursory examination will not do. In one possible situation, it could be that of two possible highway routes, one might open up commercial land for one jurisdiction and remove it from another. But the former may have more competitively placed commercial land elsewhere within its boundaries, as well as a strong tax base, so the road's location would not be critical to its economic situation, thus making the choice a bit easier. In another instance, one route location might make accessible sites for possible industrial and commercial usage. These sites would afford a potential form of added public income such as income taxes and possible property taxes. However, offsetting these possible gains might be increased costs for police and fire protection, for schools to handle the possible influx of new families into the area, for added maintenance costs, for additional sewers and drainage. The potential activity may also cause pollution of earth, sky, and stream. At what point do the economic advantages of a certain location and design outweigh the disadvantages be tolerated to gain the advantages?

The above example shows that more often than not, surface indication will not tell the whole story. Local goals and objectives may not be well thought out, and official plans may not represent the locality's real possibilities.

Therefore, economic analysis of the effects of a new highway on an area can show the economic gains and related social gains to be expected from the highway's location. A new program which also

incorporates the use of economic analysis for highways is the new "economic growth center development" program.

Economic growth center development highways were established by the Federal Aid Highway Act of 1970. The Secretary of Transportation, with this law, has the authority to provide additional funds to the States for demonstration projects for the construction of development highways on the Federal primary system.

This law is primarily designed to show that areas with a potential for economic growth can be substantially aided by highway improvements. I believe these demonstration projects will not only play a vital role in revitalizing and diversifying the economics of the communities and rural areas with small populations, but can also substantially assist in enhancing and dispersing industrial growth and checking or slowing down the current trend toward migration of people to the large, congested metropolitan areas.

The 1970 act authorized the appropriation of $50 million for each of the fiscal years 1972 and 1973 to help finance the Federal share of costs of the new program's projects. The additional funds make it possible to increase the Federal share of the cost of the demonstration projects from the normal 50 percent to about 70 percent.

The growth areas designated by the Secretary of Transportation are based on recommendations by the State's Governors. Each Governor was invited by the Secretary last July to recommend not more than three growth centers in his State which would meet criteria developed for the centers.

After the Governors have submitted their selections, the Department of Transportation determined the eligibility of projects for financing by considering the following conditions:

First. One State may receive no more than 15 percent of the funds authorized in any one year for growth center development highway projects.

Second. Economic growth center development highway funds must only be spent on Federal-aid primary highways.

Third. Projects located on interstate highways are not eligible for inclusion in growth center development highway programs.

To date, the Secretary of Transportation has announced approval of 91 growth centers located in 43 States and Puerto Rico, and more recommendations are being reviewed with approvals expected in March. It is hoped that there will be at least one active demonstration project in each of the 50 States.

In Montana, the Governor submitted three areas as prospective economic growth centers. These areas were the Lone Mountain Access Road, Sidney and Wilsall—north and south projects. On November 2, 1971, Secretary of Transportation John A. Volpe announced approval of only one of these projects, the Lone Mountain Access Road.

The Sidney and Wilsall—north and south projects, although not accepted, both possessed the credentials necessary for approval as economic growth development centers. Each of these projects would have provided a boost for agriculture and agriculture-oriented industry in their respective areas. The State highway commission is developing two other growth centers with their highway projects to replace the two denied ones.

Although the total program has had fine initial response and acceptance, I feel there remains some room for improvement.

First of all, the 1970 Federal-Aid Highway Act states that funds for economic development growth centers must be spent only on Federal-aid primary highways. However, Montana, like other Western States, does not have a large amount of mileage in its primary system. This restriction thus limits these States to only a few areas which they may recommend as prospective economic growth centers. If however, the program were expanded to also include the Federal-aid secondary highways there would be a broader range of locales from which the States could make their selection. This proposed expansion would offer these areas, now served only by secondary roads, a real opportunity for economic development, an opportunity greatly needed, yet nearly impossible without the aid of this type of program.

Second, I feel there should be additional funds made available for this program.

The response from the States was so great that the funds made available for fiscal years 1972 and 1973 were committed before the end of the first fiscal year. With additional funds this shortage would be alleviated and more and better projects could be planned by the States.

Therefore, I propose a bill which amends the Federal-Aid Highway Act of 1970. The first two amendments would allow areas served by secondary highways to become eligible for consideration as economic growth development centers.

Mr. Speaker, I include the entire bill in the RECORD following my statement:

H.R. 13459

A bill to amend section 143 of title 23, United States Code, relating to economic growth center development highways

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 143 of title 23, United States Code, is amended as follows:

(1) Subsections (a), (b), and (c) of such section are each amended by inserting immediately after "Federal-aid primary system" each place it appears the following: "and on the Federal-aid secondary system".

(2) Subsection (d) of such section is amended by inserting immediately after "Federal-aid primary" the following: "and secondary".

(3) Subsection (g) of such section is amended by striking out "and not to exceed $50,000,000 for the fiscal year ending June 30, 1973." and inserting in lieu thereof the following: "not to exceed $100,000,000 per fiscal year for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975.".

OBSERVATIONS ON THE CHINA TRIP

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 60 minutes.

Mr. CRANE. Mr. Speaker, when the President initially announced his forthcoming visit to Peking on July 15, he declared that—

I want to put our policy in the clearest possible context. Our action in seeking a new relationship with the People's Republic of China will not be at the expense of our old friends.

The communique issued by the President indicates that a far different result has occurred. Hopefully, initial reports will be further clarified and we will learn that what appears to be the case is, somehow, better than it seems. Nevertheless, we must deal with the statements which have been made.

In his communique, for example, the President declares that—

The United States will maintain its close ties and support for the Republic of Korea.

He continues to state that—

The United States places the highest value on its friendly relations with Japan.

At no point in the communique does the United States reaffirm its support for Taiwan. Instead, the President declares that—

The ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan is our goal.

In the same communique, the Chinese Communist leadership declared that—

Taiwan is a province of China . . . the liberation of Taiwan is China's internal affair in which no country has the right to interfere: and all U.S. forces and military installations must be withdrawn from Taiwan.

Thus, the Chinese reaffirmed their commitment to the use of force and violence in international affairs. The United States, for its parts, renounced the use of force. The Chinese demanded that American troops be withdrawn from Taiwan. The United States agreed.

The appearances, at this point, are that the Chinese received exactly what they demanded, while the United States received virtually nothing in return. The Chinese made no concessions with regard to the war in Vietnam or with regard to American prisoners of war, allegedly priorities on the President's list of subjects to be discussed.

In addition, the Chinese reaffirmed their commitment to world revolution. In the very communique in which our own Government did not see fit to reaffirm its commitment to the people of the Republic of China, the Communists did not hesitate to reaffirm their own commitment to violence and terror. They declared that they "firmly support" the "struggles of all oppressed people for freedom and liberation—the Chinese side expressed its firm support for the peoples of Vietnam, Laos, and Cambodia in their efforts for the attainment of their goals and its firm support to the seven-point Provisional Revolutionary Government of the Republic of South Vietnam."

At the very moment when American soldiers are being killed by Communists in South Vietnam, our Government has made an agreement in which it did not see fit to maintain our own international commitments. The Communist Chinese, however, did not see fit to abandon their own allies. If there was a quid pro quo, it is not evident at this time.

In his news report from Shanghai in

the Washington Post of Monday, February 28, 1972, Stanley Karnow states that—

The considerable concessions by the President appeared to have been made in return for a relatively minor Chinese agreement to "facilitate" bilateral scientific, technological, cultural, sports, journalistic and trade exchanges between the United States and China.

Mr. Karnow continues:

Weighing concessions made by the President, many observers here feel that the Chinese got the better of the bargain even though White House National Security adviser Henry Kissinger said afterward that the U.S. approach was not to see "who scored how many points on which issue."

What Mr. Kissinger had in mind, is difficult to tell. What points we scored on any issue, is equally difficult to understand. That we acted in a totally undiplomatic manner with regard to our longstanding allies is clear. In its editorial for February 28, 1972, the Washington Daily News declared that—

We do not argue that the 9,000 American servicemen on Taiwan should stay there forever. Most of them are there to support our Vietnam operations, which are winding down. But the way to withdraw troops from an ally's soil is after careful negotiation with the ally, not through a joint announcement with his sworn enemy.

It is difficult for me to believe that our Government will not stand by its treaty commitment of 22 years with the Government of the Republic of China. Yet, reading the communique which has been issued, this conclusion cannot be escaped. The Chinese Communists agreed that "international disputes" should be settled "without resorting to the use or threat of force." Yet, they have made it clear that this does not apply to the Taiwan or Vietnam problems, which they consider to be civil war. We have also renounced the use of force. Does our renunciation apply to the defense of Taiwan?

Prof. Alexander Eckstein of the University of Michigan declared that, in effect, the United States is "rendering a defense treaty inoperative—although not renouncing it if there is an attack." Professor Eckstein said that the United States is virtually saying:

We are withdrawing from Taiwan—precisely the formula that the Chinese have asked for.

Another China specialist, Donald Klein of Columbia University, said that—

I suspect that both sides will be willing to just let it—the 1955 defense treaty with Taiwan—die a natural death.

Is this the policy of our country, one of abandonment of longstanding allies during secret negotiations with the common enemy? I shudder to think that it is. If it is, all of our alliances throughout the world will be shattered. Who, ever again, will trust the United States? More important, we will have proven untrue to our own principles of honor in international relations.

Commenting upon the agreement made in Peking, columnist William F. Buckley, Jr., in the Washington Star on February 28, 1972, declared that—

We have lost—irretrievably—any sense of moral mission in the world. . . . All of Asia will understand that whatever the mandarin niceties of the President's world report, at the crunch he didn't dare risk a social breach in Peking and its implications, merely to reassure the people and the government of Taiwan—notwithstanding that on announcing last summer that he would come to China, Mr. Nixon guaranteed that he would not jeopardize the best interests of our "friends."

I wish to share Mr. Buckley's column with my colleagues, and insert it into the RECORD at this point:

LOST: ANY SENSE OF MORAL MISSION

(By William F. Buckley, Jr.)

PEKING.—In what one devoutly hopes will be the last toast ever offered by a President of the United States to Chairman Mao and Premier Chou, Richard Nixon said, giddily, "This was the week that changed the world."

For once he was not trafficking in hyperbole. It was surely such a week, and it was evident from the strain on the face of Henry Kissinger when he presented himself for questions after the communique was issued, that he also understood it. Those who know Mr. Kissinger and his work are entitled to surmise that the whole China adventure settles now in his mind as a nightmare.

Here is what the Chinese gave up:

1—They consented to traffic with representatives of the government of the United States even though the United States still recognizes the government of Taiwan.

2—They performed routine rhetorical exercises on the theme of world peace, and national sovereignty, thereby disappointing a few Berkeley sophomores and African purists who believed that Maoism would never equivocate on the primality of its international revolutionary mission.

When the New York Times' reporter asked Mr. Kissinger what has the United States accomplished that wasn't accomplished by ping pong, Mr. Kissinger, nettled, rattled off Chinese obeisances to the good international life. He might as well have cited the Soviet Union's guarantees as described in its constitution.

Here is what the United States gave up:

1—With all the world poised to consider one point above all, namely the integrity of the United States' commitment to Taiwan, he issued a communique in which the Red Chinese asserted and reasserted their absolute right to conquer Taiwan, while we uttered not one word on the subject of our defense treaty, not one word on the applicability of our principles of self-government and independence to the people of Taiwan.

That staggering capitulation, for all that Kissinger sought to distract from it by citing President Nixon's world report which reaffirms our defense treaty with Taiwan, is the salient datum in the week that changed the world.

All of Asia will understand that whatever the mandarin niceties of the President's world report, at the crunch he didn't dare risk a social breach in Peking and its implications, merely to reassure the people and the government of Taiwan—notwithstanding that on announcing last summer that he would come to China, Mr. Nixon guaranteed that he would not jeopardize the best interests of our "friends."

Since uttering those words, Mr. Nixon has seen the expulsion of Taiwan from the United Nations, and now the expulsion of Taiwan from the presidential catalogue of nations in Asia whose independence he is prepared to affirm while in China.

2—We have lost—irretrievably—any sense of moral mission in the world. Mr. Nixon's appetite for a summit conference in Peking transformed the affair from a meeting of diplomatic technicians concerned to examine and illuminate areas of common interest, into a pageant of moral togetherness at which Mr. Nixon managed to give the impression that he was consorting with Marian Anderson, Billy Graham and Albert Schweitzer.

Once he decided to come here himself, it was very nearly inevitable that this should happen. Granted, if it had been Theodore Roosevelt, the distinctions might have been preserved. But it is important to remember about Mr. Nixon that he is so much the moral enthusiast that he alchemizes the requirements of diplomacy into the coin of ethics. That is why he toasted the bloodiest incumbent chief of state in the world in accents most of us would reserve for Florence Nightingale.

3—Mr. Nixon has almost certainly adjusted American politics in such a way as to compel almost the whole of the Democratic party to the position that we need to dump Taiwan. Previously, that had been an aberration of Sen. George McGovern.

A few days ago, in the spirit of Peking, Sen. Fulbright took it up. Now, in the communique midwifed by Richard Nixon, the Chinese list the independence of Taiwan as the principal obstacle to the "normalization" of relations between China and the United States (as if our normal relations with the Soviet Union had done anything for the peace and freedom of the world).

And Richard Nixon, by his heroic actions of the past week, clearly puts normalization as the highest objective. The analytical deduction will necessarily occur to Democratic presidential candidates, and the arguments will have been made for them by Richard Nixon. All of this might take a few years to transact, in America. But in Asia, they will have received the signal.

They will have got it by the time these words are printed. Mr. Kissinger spoke today about the Peking summit, "in terms of the direction to which it seeks to point," and of "the basic objective" of setting "in motion a train of events and an evolution in the policy of our two countries." That was brilliantly accomplished. We should certainly know, by now, the direction in which we are headed. No wonder that they are toasting here, with increasing ardor, the health of Richard Nixon.

Far more than the future of Taiwan is involved, as if that were not enough of a moral question to concern all of us today. The very honor of our country is at stake, for if our treaty commitments to the people of the Republic of China can be eliminated at a Peking banquet, how do our European allies know that the NATO alliance might be abrogated at a similar euphoric event in Moscow? Either our country is a trustworthy and honorable ally, or it is not.

The New York Daily News, in its editorial of February 28, stated that—

The President's "first duty is to lay all the cards on the table, and translate into plain English the bushels of banalities and double-talk issued by both sides in their wind-up communique."

The News declared that—

The mushy wording of the U.S. position regarding Taiwan is enough to send tremors running through our friends . . .

I wish to share this editorial with my colleagues. It follows:

TIME FOR PLAIN TALK

President Richard M. Nixon will report to the American people tonight upon his return from Red China.

His first duty is to lay all the cards on the table, and translate into plain English the bushels of banalities and double-talk issued by both sides in their wind-up communique.

Diplomatic statements often are intended to obscure rather than enlighten. This one is a masterpiece of murkiness.

On the surface, it would seem Mr. Nixon got nothing. Nowhere is there evidence that Red China's masters yielded a whit on Viet-

nam, support for Communist subversion in Asia, or designs for the "liberation" of Taiwan.

It further appears that Mr. Nixon inched still further away from firm U.S. support of Free China's freedom and independence.

The mushy wording of the U.S. position regarding Taiwan is enough to send nervous tremors running through our friends and the nervous, neutralist fence-sitters in Asia.

A candid, unswerving restatement of America's commitment to Free China—as embodied in our mutual security treaty with Chiang Kai-shek's regime—is the least Mr. Nixon can offer now to dispel fears of a future sellout.

As for the rest, the nation will expect from the Chief Executive a detailed, concrete report on all phases of talks in Peking—with emphasis on just what the U.S. will get out of any deals that have been made.

We're waiting, Mr. President.

If we are preparing to abandon our faithful and longstanding allies, let this administration say so clearly and precisely. Then, hopefully, the American people will make known whether or not they believe that such a policy is consistent with their own belief about the nature of their country and its role in the world.

Our country has assisted the nations of Europe and Asia to resist tyranny in World Wars I and II, in Korea, and in Vietnam. After all of this sacrifice, are we prepared now to abandon our role of world leadership and permit the forces of totalitarianism free reign? I hope that this is not the case. Only immediate clarification, and an immediate declaration of our intentions to stand by our commitments, in terms which are not ambiguous, and which can be understood in Peking, will allay our current fears. These words and these actions are already long overdue.

TRIBUTE TO THE REVEREND CHARLES W. HOEMIG

The SPEAKER. Under a previous order of the House, the gentleman from Nebraska (Mr. McCOLLISTER) is recognized for 5 minutes.

Mr. McCOLLISTER. Mr. Speaker, we have been honored today by having the invocation offered by Rev. Charles W. Hoemig, pastor of the Holy Trinity Lutheran Church of Littleton, Colo.

It has been a personal privilege for me to have become acquainted with Pastor Hoemig, as he participated in the marriage of our son and daughter-in-law and in the baptism of my grandson, Stephen Scott McCollister.

A native of Fort Wayne, Ind., Pastor Hoemig received his bachelor of arts degree from Indiana University, and his bachelor of divinity degree from the Chicago Lutheran Theological Seminary.

He is the immediate past president of the Littleton Kiwanis Club, immediate past president of the Metropolitan Denver chapter of the Leukemia Society of America, a board member of the American Red Cross and the Gallup Park School for Retarded Children. Pastor Hoemig is also chairman of the Synodical Committee on Camping, chairman of the High Country Advisory Board—Leisure-Recreation Ministry—and chairman of the Lutheran School of Theology Capital Appeal.

Within the past few months, he has received the Vickie Franzen and John F. Hiatt Awards for "Outstanding Leadership in the Leukemia Society of America."

Pastor Hoemig comes to us today directly after a 5-week trip throughout India and Burma, having been selected by the church to observe, evaluate, and interpret the church's work among lepers, refugees, schools, and seminaries and in local congregations.

Mr. Speaker, I am proud to have had a small part to play in bringing Pastor Hoemig to the House of Representatives today.

ENVIRONMENTAL PROBLEMS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, in his special message on energy of June 4, 1971, President Nixon emphasized that the growing public demand for a cleaner environment and the continued growth of the Nation's energy needs will pose difficult choices for public policy in the years ahead. As in so many other cases, it will be incumbent upon us to find the proper balance or mix of two "goods," neither of which can be pursued without consideration of its effect on the other.

Unfortunately, there are some who refuse to recognize the delicate trade-off that will be required between restoring the Nation's environment and meeting the energy needs of a great industrial society. Yet, it should be obvious that if we were to heed the urgings of either those who would pursue economic growth and unlimited energy production without regard to environmental impact, or those who advocate stringent pollution control regardless of economic costs, the Nation and the American people would end up worse off in both cases.

Mr. Speaker, I raise these considerations, because I am particularly concerned about a bill that was introduced last week in the Senate which would place a 1-year moratorium on further licensing of nuclear powerplants. In his statement in support of the measure, Senator GRAVEL suggested that the environmental risk of these plants is all out of proportion to the contribution that they could make to meeting the Nation's electrical energy needs, and that therefore a moratorium on further construction and licensing could be readily justified.

I strongly disagree with the Senator from Alaska. On the one hand he has greatly exaggerated the danger that these plants pose for the environment and public safety, and on the other, has confused and greatly underestimated the role that nuclear plants are currently playing in meeting the energy needs of a number of important areas in the country. As a result, adoption of his legislation would lead to the kind of "no-win" situation that I mentioned a moment ago.

To begin, Senator GRAVEL argued that since nuclear powerplants currently provide only about 3 percent of our electrical production capacity, delay in putting into operation the 15 plants scheduled for 1972 would not have serious consequences. However, these are national aggregate figures which simply are not very useful or meaningful in the consideration of electrical power production. If we want to determine the real impact of a moratorium on nuclear generating capacity we must look at each region of the country, because current technology and facilities do not permit significant transfer of power from high reserve to low reserve areas.

Mr. Speaker, data provided by the staff of the Joint Atomic Energy Committee on which I serve, clearly shows that a number of regions in the Nation would be very adversely effected by a moratorium on licensing. Though the general rule of thumb in the power industry is that a 20 percent reserve should be maintained in excess of the peak load demand, the mid-America region, which includes my own State of Illinois, will be reduced to a dangerously low 4.9 reserve level unless nuclearplants scheduled for operation during 1972 are put into service. Similarly, the Southeast region would have reserve capacity of only 6.3 percent, the Texas region would have reserves of only 9.8 percent, and the East Central region reserves of 10.1 percent, unless nuclear plants scheduled for operation are put into service this year.

What these figures indicate, I believe, is that in these areas of the country, new nuclear generating facilities could provide the increment of additional capacity that will be needed to prevent brown-outs and black-outs during the peak-load season. For experience has shown that if generating capacity reserves drop significantly below 20 percent, the odds are high that something can go wrong on the system such as a generator, transformer, or circuit breaker failure that would require major load "dumping" with all that implies for major industrial centers.

So Senator GRAVEL may be correct about the minor fraction of total national power capacity accounted for currently by nuclear facilities, but the real consideration concerns the incremental addition to generating capacity that new nuclear installations can play in specific areas of the country during the coming year. If the question is viewed from that perspective, then it is clear that a moratorium of the kind proposed by the Senator could have very grave consequences indeed.

Mr. Speaker, if Senator GRAVEL has seriously underestimated the potential economic costs of a moratorium, I think he has also considerably exaggerated the environmental risk. As President Nixon noted in his energy message that I cited earlier:

> It is pertinent to observe that the safety record of civilian power reactors in this country is extraordinary in the history of technological advances. Fore more than a quarter century—since the first nuclear chain reaction took place—no member of the public has been injured by the failure of a reactor or by an accidental release of radioactivity. I am confident that this record can be maintained.

To be sure, there are still important problems remaining concerning the disposal of radioactive wastes, improvement

of emergency core-cooling systems, and thermal pollution. But under Dr. Schlesinger's energetic leadership at the Atomic Energy Commission we are making substantial progress on all of these fronts. In my view, there is little evidence that any of these considerations provide cause for halting further development of nuclear generating capacity at present.

Finally, Mr. Speaker, I think we must consider carefully the long-range impact of a moratorium on further nuclear construction and licensing. Most current projections indicate that we will have to double our generating capacity by the end of the decade in order to meet the Nation's energy needs. During this same period, however, we will be phasing into progressively more stringent air and water pollution standards that will both place sharp limits on our ability to expand power production by means of conventional fossil fueled facilities, and at the same time will increase the demand for electrical power that will be needed to operate municipal sewage treatment facilities, stack-scrubbing devices and even mass transit systems. While we do not yet have concrete estimates regarding the increased demand for electrical power over the coming decade that will be required as a result of the implementation of the Clean Air Act and the pending clean water bill, the evidence available at present indicates that this demand will be substantial.

It will take over 500,000 kilowatts of power, for example, just to operate the subway system now under construction in the Metropolitan Washington area. To the extent that this system cuts down on the emission of pollutants from autos, it will play an important role in our quest to restore a more livable environment. But the Metro system, and systems like it throughout the Nation, will not be possible if we do not have adequate capacity to produce electrical power.

To take another example, we are currently making considerable progress in the effort to develop a commercially viable process for the gasification of coal. Since much of the vast deposits of coal reserves in this country are of the high sulfur content variety, they will be of little use to the Nation in future years unless some economical process for converting them into clean natural gas can be perfected. But, again, this conversion process will require abundant supplies of electrical energy. Findings from current research and demonstration projects suggest that just one plant producing synthetic gas by means of electrochemical gasification of char will require 400,000 kilowatts of power annually. And estimates for the number of plants that could be put into operation if the process is perfected run all the way from 20 to 100.

Mr. Speaker, it seems clear to me that if we are to have continuing economic growth and improvement in the quality of our environment over the next decade, we are going to have to continue uninterrupted expansion of our nuclear generating capacity. The light water reactor is the best process we will have available during the next 10 years to produce the electrical power we need with a minimum of harmful environmental consequences. If we were to slow down or halt the development of nuclear reactors at this point, we would of necessity have to increase our reliance on conventional fossil-fueled plants which would be both more costly and have far greater adverse impacts on the environment.

Mr. Speaker, I would like to conclude by inserting in the RECORD a table prepared by the staff of the Joint Atomic Energy Committee which indicates in quite dramatic terms, the sulfur dioxide, nitrogen oxide, and particulate emissions that will result from fossil-fueled plants of a megawatt capacity equivalent to a number of nuclear facilities scheduled for operation this year. I think this data demonstrates quite vividly that rather than being an enemy of environmental restoration, nuclear power might better be considered a partner in light of the energy needs that will confront the Nation in the decade ahead:

Utility and plant	Capacity[1]	Replacement fossil plant environmental impact expressed in increased emissions of pollutants (tons)		
		SO_2	NO_x	Particulates
Consolidated Edison Co.: Indian Point No. 2	873	29,000	16,000	1,245
Northeast Utilities: Millstone Point No. 1	662	23,000	15,000	1,100
Millstone Point No. 2	830	26,000	17,000	1,300
Northern States Power Co.: Monticello No. 1	543	80,000	27,000	18,000
Metropolitan Edison Co.: Prairie Island No. 1	550	150,000	.....	35,000
Three Mile Island No. 1	830	29,000	5,800	2,680
Three Mile Island No. 2	950	31,000	6,200	2,490
Commonwealth Edison Co.: Dresden No. 3	809	300,000	35,000–70,000	18,000–30,000

[1] In thousands of megawatts electrical.

AID FOR THE SOFT DRINK INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, today I am introducing legislation to save certain small businessmen all over the country, namely the bottlers of the small soft drink industry.

For more than 70 years, the soft drink industry in the United States has operated under a franchise system which has continually and well served the American consumer with a quality product jealously guarded for purity of content at a price within the reach of all. The soft drink industry substantially consists of small businessmen, but they represent a strong and vital economic force in over 1,600 communities in our country.

In mid-January of 1971, the FTC announced an intention to issue complaints against seven soft drink francise firms. The FTC alleges generally that the companies have hindered or eliminated competition in the soft drink industry by restricting soft drink manufacturers to designated geographical areas.

The soft drink bottlers of the Nation think the objectives sought by the FTC will be disastrous for the industry, and positively detrimental to the public interest. Bottlers do not view the territorial system as an imposed limitation on their competitive freedom. To the contrary, they consider this system as the only feasible means of assuring to the public the advantages of intensive local competition and service among national and private label and store controlled brands, and the only reasonable way by which prudent businessmen would undertake the extensive risks and responsibilities of soft drink bottling.

At the present time, though there is tremendous inter-brand competition, the territorial system prevents competition between bottlers of the same product. If this is changed, the result will be far reaching.

The marketing method traditionally used by the soft drink industry has been sales and service by route delivery. This method requires and in fact has produced intensive competition between the bottlers of the different national brands for the trade of virtually every restaurant, filling station, and other outlet in the territory, and competition for shelf space within the supermarkets. Low prices and good service to the public at all retail outlets have been the results of this method. Some of the large grocery chains, however, find this method inconvenient with their practice of mass purchasing from suppliers and redistribution through warehouses to their retail outlets. This is particularly true of those chains which offer their own private brand beverages in competition with the national brands. Such grocery chains have demanded warehouse delivery of soft drink products in large volumes at reduced cost. Generally, soft drink bottlers have resisted demands for such bulk warehouse deliveries because they have been considered incompatible with the territorial franchise system under which the industry has prospered.

If this territorial system is destroyed as a result of the FTC action, warehouse delivery to the large grocery chains and other volume buyers will become the rule rather than the exception. Those bottlers fortunate enough to be located in close proximity to the chain's warehouses or who are in financial position to restructure their methods of operation to specialize in only large-volume customers over a wide geographic area will be able to increase their sales. The majority of bottlers, however, will not be so fortunate. The cost of distribution to small volume outlets—such as mom-and-pop grocery stores, drugstores, office buildings, and vending machine outlets, and so forth—is considerably higher than to large-volume outlets. Thus, the bottlers left with only the smaller volume outlets will immediately suffer sharp reductions in sales and be forced to raise prices to their remaining customers.

Thus, the success of the Commission's complaints will inevitably lead to the demise of the majority of small local bottlers. An increased trend to mergers may be the only alternative to a rash of bankruptcies.

The smaller retail outlets and the consuming public will be sure losers. The chains' present emphasis on nonreturnable containers despite their higher retail prices is illustrative of their lack of desire to save the consumer any money.

The legislation which I am introducing seeks no more than to continue the climate created almost a century ago and which has been part and parcel of our national economy. It establishes nothing new and asks no more than to continue in the same atmosphere where vigorous interbrand competition has produced quality, quantity, low prices, nationwide availability, and a healthy, small business complex which has proven beneficial to the consumer.

HOUSE JOINT RESOLUTION 620

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. McDONALD) is recognized for 15 minutes.

Mr. McDONALD of Michigan. Mr. Speaker, the House Judiciary Committee is currently holding hearings on House Joint Resolution 620, a proposed constitutional amendment to prohibit forced busing. I am hopeful that each Member of Congress will carefully follow the proceedings before the committee and will reach the conclusion, as I have, that forced busing must be ended and the only way left open to attain this goal is the adoption of a Constitutional amendment.

I would like to insert in the RECORD, following my remarks, my presentation on House Joint Resolution 620:

STATEMENT OF THE HONORABLE JACK McDONALD

Understandable concern is being generated throughout our country over the wiseness (or unwiseness) of amending our sacred and noble document, the Constitution, in order to once and for all prohibit the forced busing of students to achieve racial balance. I am of the opinion that the Constitution should not and must not be altered with every passing fancy of the American populace; rather we should solve our problems through executive procedure and, more frequently, legislative action.

However, the issue of forced busing is unique. For many years, we in the Congress have been trying to settle the busing issue with legislation, but these attempts have been in vain, all having been disregarded by the courts. Current laws contain various provisions which prohibit any federal requirement of busing to achieve racial balance. The first such law was the Civil Rights Act of 1964, as amended; Title VI provided "that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve racial balance." Also the Departments of Labor-HEW Appropriations bills for F.Y. 1969 and 1970 have included some form of the so-called Whitten amendments which originally stated:

"No part of the funds contained in this Act may be used to force busing of students, the abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents.

"No part of the funds contained in this Act shall be used to force busing of students, the abolishment of any school or the attendance of students at a particular school as a condition precedent to obtaining Federal funds otherwise available to any state, school district or school."

Attempts were made to delete the Whitten amendments from the 1969 and 1970 HEW Appropriations Bills. These attempts were defeated; however the Senate succeeded in changing the final working of the anti-busing provisions by adding the phrase "except as required by the Constitution."

The 1971 Office of Education Appropriations Bill contains the following provisions:

"SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

"SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school."

And again in 1972, the Education Appropriations Bill contained the Whitten amendments.

Now the Senate is acting on the Higher Education Act, S. 659. This measure as passed by the House contained several strong anti-busing amendments. On February 25, the Senate accepted the Griffin amendment which states "no court of the U.S. shall have jurisdiction to make any decision, enter any judgment, or issue any order the effects of which would be to require pupils to be transported to or from schools on the basis of race, color, religion, or national origin."

This amendment appears to be very strong but I have no doubt that the courts will treat it in the same way, if enacted, that they have treated the Whitten amendments—total disregard. Legislative victories over busing have been and will continue to be merely symbolic; they will not have any effect on court-ordered busing.

Let there be no mistake; I and the vast number of citizens are in support of equal and quality education for all students, however, what is opposed is the use of forced busing to achieve this laudable goal. Busing is a negative approach, one that is meeting resistance throughout our land. I shall not at this time go into other approaches, but they exist, are workable, and will receive the support of the people.

I feel that the courts have misinterpreted the equal protection clause of the 14th Amendment, Title VI of the 1964 Civil Rights Act, and the various educational appropriations bills. The historical perception gleaned from enacted anti-busing provisions has convinced me that I must endorse and actively campaign for the passage of H.J. Res. 620. My convictions in this matter are supported by the 8,000-plus letters, telegrams, and petitions of plea from my constituents that I join forces in the Congress to stop forced busing, preserve neighborhood schools and protect the freedom of choice.

So I lay to rest the case of the 19th District of Michigan, and the entire country, against busing. I strongly urge my colleagues on the Judiciary Committee to report out H.J. Res. 620 and let the people decide this issue.

SALUTE TO THE AMERICAN LEGION

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WHALLEY), is recognized for 15 minutes.

Mr. WHALLEY. Mr. Speaker, from its beginnings in 1919, in the immediate aftermath of the First World War, the American Legion has been a bulwark of our national life. Its members have always been in the forefront of those who stand watch at the frontiers of freedom. They have learned, in their own experience, the cost of liberty's survival. Born among 1,000 officers and men of the AEF, the Legion has grown through the past half century into the greatest single spokesman for the American veteran and his rights.

Millions of our citizens have held the ranks of the Legion, having served in two great world conflicts, the Korean war, and the continuing struggle in Southeast Asia. The Legion represents all sorts and conditions of Americans drawn from every walk of life, united by a deeply felt patriotism and love of country. Its programs have comprehensive character and loyalty in many creative activities, especially its concern for youth.

Today, as in the past, the Legion champions the cause of the veteran and his dependents here in our society, mindful of the great debt owed to him by all of us. The Legion is particularly concerned wih the plight of our men taken captive in Southeast Asia and works vigorously for their safe return.

Finally, the Legion is foremost among those who seek a strong, secure national defense.

I am pleased to salute the members of the Legion on this American Legion Day, 1972, and to assure them of my support and of the support and respect of the Congress. The ideals they cherish and uphold are ideals which have made America great and, under God, will carry her through these troubled times to peace, unity, and honor.

IN SUPPORT OF LEGISLATION CREATING A NATIONAL INSTITUTE FOR THE STUDY OF CHINA

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, I am pleased to introduce legislation today, which will establish in Washington a federally financed and operated National Institute for the Study of China. This is a most opportune time for the Congress to consider establishing such an institution, for President Nixon's historic trip to China has already succeeded in opening up new avenues of communication between the Chinese and American peoples. In order to take full advantage of this great challenge, we as a nation, must strengthen our knowledge of the 800 million people of China. We must better understand their language, their culture, and customs. Americans may find that in the future even such seemingly minor matters as dietary habits can significant-

ly influence our ability to cooperate and work with the Chinese.

The National Institute for the Study of China would serve two basic functions. Educationally, it would provide instruction in Chinese history, government, culture, economics, and other disciplines. Such instruction would be open to government personnel, students, business leaders, journalists, and others. It would also bring together all Federal Chinese language programs under one roof. The General Accounting Office has informed me that there are now some 60 Government language programs that give instruction on the Chinese language. A single language program run by the national institute would end much of the present duplication of effort.

In addition to the educational function, the national institute would administer a scholarship program for students engaged in Chinese studies at our colleges and universities. Such a program would not supersede the scholarship programs administered by the Department of Health, Education, and Welfare under the National Defense Education Act, but would supplement the national defense scholarship program with respect to China studies. That such a supplementary program is needed is indicated by the fact that since 1959, only 2,110 graduate fellowships were awarded for Chinese studies under the National Defense Education Act. Only $23 million has been expended under the act for Chinese studies.

The National Institute for the Study of China will be administered by a board of directors, whose members will be appointed by the President. The board will be composed of representatives from: First, the business community; second, the academic community; third, the Foreign Service Institute; fourth, the Defense Language Institute; fifth, USIA; sixth, AID; seventh, the Peace Corps; and eighth, the Department of Health, Education, and Welfare. Each member would be appointed for a 3-year term and would receive $100 for each day he is engaged in his duties on behalf of the national institute. Such a broad representation on the board of directors will enable it to develop the broad kind of curriculum necessary to meet the needs of the variety of people from many walks of life, who would attend the national institute. Board members would be authorized to contact business firms and colleges and universities with the aim of securing from these institutions advice on curriculum, working out contracting arrangements with potential instructors, and attracting students to the national institute. The board would also administer the scholarship program.

The idea of a National Institute for the Study of China may appear odd to some and unrealistic to others. Objections may be raised against the Federal Government's actually operating an educational institution. However, there are ample precedents for this. The most obvious are the service academies. In addition, the National War College and the Industrial College of the Armed Forces, which are administered by the Joint Chiefs of Staff, provide 10-month courses for U.S. Government civilian and military personnel on a wide variety of political, diplomatic, and military subjects.

The Center for Cultural and Technical Interchange Between East and West, better known as the East-West Center, was established by Congress in 1960 to "promote better relations and understanding between the United States and the nations of Asia and the Pacific through cooperative study, training, and research." The center coordinates academic study, research, and nondegree training in a variety of problem-oriented programs. These programs are conducted in such fields as cross-cultural communication, population dynamics, culture, and language learning, food and technological development. The center is operated under a contract between the University of Hawaii and the Bureau of Educational and Cultural Affairs of the U.S. Department of State. A National Review Board appointed by the Secretary of State represents the U.S. Government's interest in the center.

The Foreign Service Institute, which provides language training for Foreign Service officers, represents another Government endeavor in the field of education. As I noted previously, it conducts one of 60 Government-operated language training programs.

The Woodrow Wilson International Center for Scholars was established by act of Congress in 1968. The Wilson Center intends to build up a fellowship program for 40 scholars, approximately half to be appointed from countries other than the United States. They will engage in studies designed to increase their understanding of significant international, governmental, and social problems. The Wilson Center's definition of "scholar" is a wide one, embracing men and women with expertise and scholarly capabilities in a wide variety of fields and occupations. The program is open to members of the academic community, lawyers, diplomats, other Government employees, congressional staff personnel, journalists, businessmen, and foundation and labor union officials.

These institutions, which are either Government-financed or operated, provide, I believe, ample precedent for a National Institute for the Study of China. One may ask, however, why should we establish such an institute for a single country? It is true that the U.S. Government sponsors no educational institution relating to a specific country. However, the East-West Center does cover a specific geographic area: Asia.

Moreover, China—with its 800 million people and vast land area—represents a unique case. Since the end of World War II, the United States has been deeply involved with almost every nation in the world, both Communist and non-Communist. Our diplomats, scholars, businessmen, and tourists travel the globe and come into contact with millions of people of various races, religions, and cultures. These people in turn visit this country. They are exposed to American culture in countless ways from books to rock bands. None of this can be said with regard to China. Since 1949, the United States and Communist China have had practically no contact with each other. Diplomatic relations have been nonexistent, and both countries have prohibited travel to the other. Since 1950, the United States has maintained a total embargo on trade with mainland China.

The sudden developments of the past few months indicate that this situation is now rapidly changing. Now that the People's Republic of China occupies a seat in the United Nations, and now that President Nixon has announced a gradual resumption of trade with China, this is clearly an opportune time to become better acquainted with the centuries-old traditions of this vast Nation.

We must ask ourselves whether Americans are prepared to profit fully from cultural and commercial contact with Chinese in which they will soon be engaging. All things considered, the United States does have an impressive collection of China and Asia experts both in government and the academic community. In the last decade, Asian and Chinese studies in the humanities and social sciences grew dramatically with the help of more than $100 million from the Ford Foundation and the U.S. Office of Education. However, for the last 20 years, American scholars have had practically no opportunity to deal with Chinese on a personal basis. Many China and Asia experts are apparently deficient in language training. Dr. Richard Lambert, of the University of Pennsylvania, recently conducted a survey of East Asian scholars and found that 62.9 percent of those professors other than language teachers can read, write, or speak the native language of their field with ease. Only 27 percent can do all three with ease.

Yet, language is one of the more advanced disciplines in Asia and China studies, along with history, literature, and political science. Other disciplines are woefully weak. Consider these statistics: Of the 412 doctorates awarded in Chinese studies in the 1960's, only 28 were in anthropology, 21 in economics—a particularly vital field in view of the coming resumption of the U.S. trade with China—10 in geography, eight in education, three in demography, and two in sociology. Dr. John Lindbeck, the former director of Columbia's East Asian Institute, wrote before his death last January that science and technology in China "is almost completely neglected" by American scholars, as are medicine and social welfare.[1] Thus, it would appear that the two decades of isolation has produced serious gaps in knowledge of China among our China scholars.

Congress has not helped this situation by its action this past year cutting funds for the Office of Education's aid to Asian studies programs for fiscal year 1972. This reduction, which included funds for fellowship and research, was from $7.2 to $3.2 million, or more than 50 percent.[2] The dramatic changes that have taken place in our China policy indicate, I believe, that we should do more to promote Asian and China studies, not less. Congress will be taking a positive step if it explores new ways to improve Asian

[1] New York Times, July 10, 1971.
[2] Ibid, July 10, 1971.

studies programs, including passage of my legislation.

I firmly believe that a National Institute for the Study of China would do much to fill the gaps that exist in Asia and China studies programs in the United States. It would serve to bring together the considerable wealth of knowledge possessed by our scholars for the benefit of other Americans, who will be coming into contact with mainland China and who lack any solid background on China and its people. It would also stimulate research into those disciplines where we are exceptionally weak such as geography, economics, education, sociology, and science.

Consider one group of Americans that a National Institute for the Study of China would help appreciably: The American businessman. As a result of President Nixon's relaxation of the U.S. trade embargo with Communist China, American businessmen have already established some contact with Chinese Communist officials, and a few reports are now appearing in the press about possible United States-Chinese trade transactions. Now that the President has put the People's Republic of China on the same level, vis-a-vis American trade, as Russia the road to expanding trade lies wide open. While most experts expect the volume of United States-China trade to grow slowly, there can be no question that increasing numbers of U.S. businessmen, engineers, and technicians will soon be going to China. Their visits and contacts will have important political and psychological effects in terms of restoring communications and promoting understanding.

Here is a segment of our society that needs information and instruction on many aspects of China. Yet, they cannot spend years in our undergraduate and graduate schools preparing themselves to deal with Chinese. A National Institute for the Study of China would fill this need gap by providing relatively brief yet comprehensive courses of instruction on China—from its politics to its eating customs. Armed with the knowledge gained from such instruction, the American businessman will be equipped to pursue his own interests as well as the national interest.

A National Institute for the Study of China would also bring together Government officials and experts from the academic community who influence the making of foreign policy. In this way, our Government officials could gain new insight and ideas concerning our relations with China. If one were to trace the factors which led us into the Vietnam war, he would, I believe, find that one factor was the lack of basic knowledge about Vietnam in our Government and society in the late 1950's and early 1960's. The academic community for the most part had limited contact with policymakers. Ideas from the outside—whether from the academic community or the press—were few and had minimal influence on U.S. policy. Moreover, both the academic community and press were deficient in their understanding of Vietnam, its people, politics, and culture; this further curtailed any influence they could bring to bear.

We obviously need to make more serious efforts to develop adequate expert knowledge on China to avoid the kind of mistakes that drew us into the Vietnam quagmire. But even more importantly, the American people need to develop a broader understanding of the problems involved in our relationship with China. As a democracy, we require not just expert knowledge, but also a certain degree of popular understanding of major policy problems, if these are to be faced wisely over any protracted period of time. This has been shown time after time since World War II in our relations not just with China, but with all of Asia. The reasons for our efforts and failures have usually included the lack of popular understanding that would have permitted a wise political use of what knowledge we did have.

This weakness in our society is not easily corrected. We have an educational system that is still narrowly focused on the historical experience and cultural heritage of our own occidental branch of humanity. In this, it is better adapted to the spirit of 19th century imperialism than to the one world we find ourselves in today. While some progress has been made at the college and university level to correct this situation, much more needs to be done. A National Institute for the Study of China would help fill a void that now, more than ever, should be filled.

INTELLECTUALS IN THE UKRAINE

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. GERALD R. FORD) is recognized for 5 minutes.

Mr. GERALD R. FORD. Mr. Speaker, the American people have always concerned themselves with the plight of the oppressed, and so it is that I call the attention of the House to the treatment being accorded intellectuals in the Ukraine.

I have received a number of letters from Ukrainian-Americans quoting dispatches from Reuters and the Associated Press detailing the repression visited upon certain intellectuals in the Ukraine.

According to these dispatches, 19 persons were arrested during the week of January 10, 1972, in the two principal Ukrainian cities of Kiev and Lviv. The reports state that among those arrested were teacher, Valentyn Moroz; literary critics, Ivan Svitlychny and Ivan Dziuba; and journalist, Vyacheslav Chornovil, author of the Chornovil Papers.

According to Michigan citizens who have written me, the only "crime" these men have committed is to speak out in defense of human rights, rights which are guaranteed by the constitution of the Soviet Union.

As these letter writers state:

> The people of the free world cannot allow this repression of the basic freedoms of speech and thought to continue. It is the duty of each of us to voice our strongest condemnation of these infringements of basic human rights.

I agree with the objective of the Ukrainian-American protesters, which is to arouse public opinion so that the United Nations Human Rights Commission will investigate conditions in the Ukraine—what the protesters describe as "the systematic destruction of the Ukrainian cultural heritage and the policy of forced Russification."

I hope that all Members of the Congress will add their voices to those of the Ukrainian-Americans who are protesting the trampling of human rights in the Ukraine.

ILLEGAL ALIENS

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, I wish to advise the House that Subcommittee No. 1, Immigration and Nationality, Committee on the Judiciary, will hold further hearings on "illegal aliens" in New York City on March 10 and 11. The hearings will be held in the Ceremonial Courtroom, U.S. Customs Court, 1 Federal Plaza, New York City, and will begin at 10 a.m. each day.

These hearings will be a continuation of the detailed investigation commenced by my Subcommittee on Immigration and Nationality in the first session of this Congress into this complex, multifaceted and significant problem.

In addition to our original hearings held in Washington, D.C., in May 1971, our subcommittee has conducted hearings in Los Angeles, Calif., Denver, Colo., El Paso, Tex., Chicago, Ill., and Detroit, Mich., to study all aspects of this very serious, nationwide problem.

The subcommittee has heard 130 witnesses representing various interested parties: The Immigration and Naturalization Service; health, welfare, and labor officials from State and Federal Governments; employers; illegal aliens; labor unions; employer associations; agricultural grower associations; ethnic groups; State legislators, and various civic and religious groups. Sixteen of these individuals were officials of the Immigration and Naturalization Service who are intimately familiar with the practical and legal aspects of this problem. These officials have been willing to testify and they have been most cooperative in responding to the requests and the questions of the subcommittee in defining the issues.

The hearings on illegal aliens have evoked an immense public concern. Due to the extensive broadcast and press coverage of our subcommittee's field hearings, few Americans today are unaware of the existence and the complexity of the illegal alien problem in the United States. In fact, a large amount of information received by the Immigration and Naturalization Service recently is a direct result of the illegal alien hearings which have been held. Thousands upon thousands of complaints and information on alleged illegal aliens come to the attention of the Immigration and Natural-

ization Service monthly. During the course of each hearing the members of the subcommittee have questioned the service witnesses at length regarding the number of investigations, the number of apprehensions, the number of deportations, as well as, the results of the investigations.

We have learned from the service that for the most part, the "leads" pending action in the various field offices, are a residue of material from which the more productive information has been extracted. The service has found that the most effective utilization of its manpower is obtained by sending search teams into areas where illegal aliens are known to congregate or are employed. The soundness of this method of operation is illustrated by the results. In calendar year 1971, the service expelled over 402,000 illegal aliens, a near record figure; in addition, the service apprehension rate of illegal aliens has increased by 20 percent.

Each of the directors of the INS field offices at which hearings were held stated to a man that they could use additional manpower, but stated further that more manpower was not the complete answer. They stated that the incentive for the illegal alien to work in the United States must be removed. This proposition was also supported by many other witnesses.

It is to this question that our subcommittee has addressed itself. Indeed, if it were only a question of manpower, we could conclude the hearings today and leave the problem to the appropriate committee for solution.

Some of my colleagues and various employees of the Immigration and Naturalization Service have suggested that the administrative reorganization of the service represents a surefire solution to the illegal alien problem. However, it is highly questionable that a change in the executive level of the Immigration and Naturalization Service would put the illegal alien problem to rest.

This multifaceted problem does not lend itself to any simple solution. If it were so, our subcommittee would not have undertaken its time-consuming and laborious investigation.

Any realistic approach to corrective legislation must take cognizance of the "push-pull" factors underlying the alien's desire to enter this country surreptitiously or fraudulently in an effort to obtain employment. It is quite evident from the testimony received by the subcommittee that illegal aliens experience little or no difficulty in obtaining gainful employment after entering into this country. Aliens enter the United States by illegally crossing the borders, by fraudulently procuring visas abroad, by purchasing spurious documents, by being smuggled, or by entering with a valid visitor's visa; however, with the intention of violating that status and taking employment.

I repeat, we are convinced that the total answer to the illegal alien problem lies not in erecting barriers on, or increasing the policing of, our borders, but in other avenues—principally by removing the incentive which draws aliens into the United States. It is evident that a doubling or tripling of the present manpower of the Immigration and Naturalization Service—putting officers shoulder to shoulder on the border—would not in and of itself, solve this problem. Likewise, additional State Department visa issuing officers and a more intensive investigation prior to visa issuance, while helpful, would not provide the ultimate solution to this problem.

Certainly, we can never condone aliens or any other person violating our immigration laws—We must insist on orderly immigration as prescribed by law. The initial violation of law by the alien sets in motion a series of events which not only adversely affects the community, but also leads to his own exploitation.

For example, in addition to expending large sums of money for fraudulent documents, which are used to illegally enter the country, the alien is often subjected to undue pressure from employers after arrival. For instance, many employers threaten the illegal alien with exposure unless he agrees to accept substandard wages or is willing to endure substandard working conditions.

It is apparent that the true culprits are the persons who should be dealt with first if a long range answer is to be found. I am referring to the smuggler, the maker of false documents, the blackmailer, and the unscrupulous employer who knowingly hires illegal aliens. To leave this group out of the illegal alien question is akin to treating symptoms and ignoring the basic disease.

The subcommittee has actively discussed the imposition of sanctions against violators of the immigration laws—the forger, the smuggler, and the employer who knowingly hires illegal aliens—and against nonimmigrants who take unauthorized employment. In considering these sanctions, many answers must be initially found, such as equipping employers with the means to identify those aliens who are not permitted to work while in this country.

In drafting legislation to meet this practical identification problem, it may become necessary to exact the cooperation of the Social Security Administration, which is not required by present law and regulations to ascertain the immigration status or the alienage of an applicant for a social security card. This is a subject which will continue to be scrutinized by the subcommittee.

In each city where our subcommittee has conducted hearings, Members of Congress have been notified of the purpose and intent of the hearings and have been requested to assist the committee in probing the issues. In several cities our colleagues joined us and were of immeasurable help in pinpointing local area problems.

I remind my colleagues that the Subcommitee on Immigration and Nationality is continuing its hearings in New York City on March 10 and 11. Subsequently, we will have hearings in Washington, D.C., on March 22, 23, and 24, and I invite any interested colleagues with information, assistance, or advice on this pressing problem, to appear before our subcommittee.

THE AMERICAN PASSENGER FLEET

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 10 minutes.

Mr. DAVIS of South Carolina. Mr. Speaker, I would commend to the attention of my colleagues hearings before the Senate Subcommittee on Merchant Marine. H.R. 11589 is before that committee, and testimony pertaining to the American passenger fleet, and its continued existence, is the center of attention.

There is, apparently, in some quarters of this country, the feeling that the American passenger fleet should be sold away to foreign interests. There is in this country, apparently, the feeling that we should relinquish American jobs to the foreign nationals of a multitude of countries. There is in this country, apparently, a faction which would end forever the sight of the American flag flying over a passenger ship. There is in this body, a group which would proclaim for all the world to hear and see that the United States has thrown in the towel and cried, "I can't."

The move to sell the American passenger fleet was a sad note indeed. It came at a most inopportune time. The American passenger fleet, save for some operating on the west coast, is laid up in port. The owners of the shipping companies, armed with a sheaf of red-ink papers and shrill voiced front men, are whining in the Halls of Congress. They will prove, they cry beyond a shadow of a doubt, that the American passenger fleet is as dead as the passenger pigeon. They flood the offices of some of the Members of this body complaining that they are being forced to bear a burden like no other business. Save for the lone voice of Congresswoman SULLIVAN, the members of the Merchant Marine and Fisheries Committee were all too willing to scuttle the ships in question to a foreign registry.

Despite the fact that my home of Charleston, S.C., a fine, deepwater port, is doing a booming business in cruise ship departures, the American shippers claim they cannot make money with passenger ships. Foreign-flag cruise ships have flocked to these shores to cash in on the rich American cruise business while our passenger interests wail they cannot make any money. The fact is, if the American family wants to go to the Caribbean tomorrow morning, they will have to do it in a foreign-flag ship.

I do not need to remind you that foreign-flag ships do not in any way compare with the American ships in regard to the safety factor. In the past years, there have been incidents when American life has been lost on ships of foreign registry, but there has not been a life lost to fire aboard an American passenger ship. It is a fact that the fires which claimed lives on the foreign ships would not have taken any lives on the American ships. There probably would not even have been any major damage, but the Americans who died in those fires have never been told that difference. I

feel this Congress will be remiss if we do not speak out on this difference now.

I feel the time has come to assert ourselves. This is America. We are not quitters, and never have been. Is it the best we can do to throw in the sponge and say we cannot operate a passenger ship business? Will we tell the foreign-flag shippers—"Here, take the ships, take the jobs, take the tax dollars; take the work of the supporting industries?" Shall we say, "Take the American business and in return give the American traveling public shoddy service and suspect equipment?" Shall we say, "Take everything, but just get the ships off our hands?"

I say here is a challenge. Just as this Congress has risen in the past to the challenge, so must we again rise up. We cannot allow the American passenger fleet to be so callously discarded. We cannot roll over and play dead. We must begin now to consider all the alternatives, explore all the avenues, and walk the second mile. Whatever it takes, whatever it needs, let us give it, because if the passenger fleet goes, I predict it will never return.

There is time to look into the alternate possibilities of the problem which confronts us. There is time to begin the action which will save our ships for the American flag. There is time—if we will just take advantage of it.

For the SS *Brazil*, the SS *Argentina*, the SS *Constitution*, the SS *Santa Paula*, and the SS *Santa Rosa*, there is still time to regain their rightful role in the shipping lanes under the flag of the United States.

We have in this country an enormous imagination, enterprise, and pride. We have the know-how and the wherewithal. We have everything we need, it seems, except the leadership to meet the crisis.

I will tell you this. If we allow this measure to become law and sell from under us American flag ships, it will not take more than 2 years before those same ships are back, under a new name and a new flag, picking up the American cruise business. It will not even take 2 years for all the other great marine powers in the world to laugh at the inept Americans who cannot keep their fleet sailing and their seamen working. I will say to you, a great passenger fleet is to a maritime nation, like a parachute is to a fighter pilot. If he ever needs it and does not have it, he will never need it again.

TOWN OF HOLBROOK 100 YEARS OLD TODAY

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to invite the attention of my colleagues to the town of Holbrook, Mass., which I have had the great honor to represent here in Congress for the past 14 years. Today that town is celebrating its 100th anniversary. Its roots actually go back to the very earliest days of the Republic, having originally been part of the town of Braintree, that town put on the map for all Americans to remember by the Adams family, and later on, part of the neighboring town of Randolph. For the last 100 years, however—and that is the event we are commemorating today in Massachusetts—the town has had its own independent existence. During this time, like every other community it has known its ups and downs, but in the main, it has continued to grow and prosper as a community. I think it good in these days when it is common to refer to the breakdown of social life and the ties that bind neighborhoods together, in these days when cities are more often referred to as jungles, where people fight to survive rather than places to work and live and raise one's family—I think it entirely fitting and proper that we be reminded on occasions like this that America still enjoys a tremendous amount of orderly, peaceful, productive communities which in some senses constitute the Nation's very backbone. Holbrook, I am proud to point out, today is just such a community, probably never in the headlines, but nevertheless a community which has produced its share of good citizens over the years and has been a good place to live and work and play for at least 100 years of history. I am sure that all of my colleagues today join me in wishing this town all the best for at least another 100 years.

After the House finishes its business today, I will leave Washington to join with the citizens of Holbrook who will be celebrating the founding of their town with a banquet tonight. Exactly 100 years ago today on February 29, in leap year of 1872, the Governor of the Commonwealth of Massachusetts approved legislation incorporating the town of Holbrook.

BANKERS HIDE SUBSIDIES BEHIND SCARE ADVERTISING CAMPAIGN

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 10 minutes.

Mr. PATMAN. Mr. Speaker, in recent weeks the Bankers Committee To Eliminate Favoritism to Credit Unions has been running full-page advertisements in bank publications complaining that credit unions are given too many subsidies by Government and industry and are providing unfair competition to commercial banks.

Of course, the bankers committee is not new. For a number of years it has been soliciting funds from bankers and businessmen across the country and trying to get business and industry to close their credit unions. Much of the literature and advertising put out by this organization is completely untrue; but, unfortunately, there are those who may read this literature and advertising and not question its accuracy. To provide financing for this group, solicitors have been employed who telephone banks and businesses throughout the country seeking donations for the fight against credit unions. These telephone solicitors, I am told, are paid a percentage of the money they collect.

PROPAGANDA BY LOAN COMPANY

Typical of the propaganda that has been published by this group is a speech made by R. Earl O'Keefe, chairman of the board of Southwestern Investment Co., which—as you might guess—is a loan and finance company. Mr. O'Keefe is proud of the fact that his organization had a credit union but that it was liquidated because "we suddenly came to the realization that this arrangement was against many of the principles for which we stand."

If credit unions are against the principles for which Mr. O'Keefe stands, I cannot help but wonder which principles he does believe in. Does he believe that the borrower should be charged an interest rate of whatever the traffic will bear? And does he believe that the borrower is at the mercy of the loan company? It is strange to me indeed how anyone could be against the principles of a credit union. The bankers committee even claims that credit unions are born of an alien philosophy, but I ask the Members of this body—is it an alien philosophy to make loans for provident and productive reasons at low cost? Is it an alien philosophy to encourage habits of thrift? Is it an alien philosophy to provide educational services in the area of consumer spending and is it an alien philosophy for a group of Americans to band together on a full basis to help each other? But I do feel that it is an alien philosophy for organizations such as the Bankers Committee to Eliminate Favoritism to Credit Unions to operate under a cloak of secrecy.

I note that none of the advertisements for the bankers committee nor any of the committee's publications which I have read list any of the officers or members of the group. It is strange to me that, if this committee holds such strong convictions about credit union favoritism, it is unwilling to come forward and make its membership public. If they have nothing to hide, there can be no reason for the bankers committee to operate in secrecy.

Credit unions have nothing to hide. Why then should groups who oppose credit unions barricade themselves behind the printed word? The bankers committee expresses great concern about credit union subsidies pointing out that credit unions do not pay taxes.

Of course, it should be pointed out that any income a credit union member receives from a credit union in the form of dividends is fully taxable. The tax exemption granted to credit unions was granted by law and was done after complete hearings and in an open and forward manner.

However, the subsidies which banks enjoy were, for the most part, given behind closed doors and accrue mainly to

the benefit of a handful of bank stockholders—compared to the 24 million members of the credit unions across the country.

BANKS ARE MAJOR TAX DODGERS

Why does the Bankers Committee not point out that banks are among the greatest tax dodgers in our country? For instance, commercial banks receive exceptionally favorable treatment for bad debt reserves. The average taxpayer is allowed to write off a debt only when he is assured that it will not be repaid. But over the years commercial banks have been allowed to establish tax-free reserves for bad debts that have resulted in a windfall tax bonanza.

Prior to 1965, commercial banks were allowed to base their bad debt reserves by averaging their losses for a large number of years. Of course, the banks that were in business during the depression used only the years when their banks almost went under to compute the bad debt reserve and this in itself provided a huge tax benefit. In 1965, the Internal Revenue Service partially closed that loophole by limiting bank bad debt reserves to 2.4 percent of all of the bank's outstanding loans.

In the simplest terms, it meant that for every $100 that the bank had outstanding in loans, it could set aside $2.40 on which it did not have to pay taxes. Of course, the actual losses that the banks suffer on their loans are only two-tenths of 1 percent so they make billions of dollars of tax-free income in this manner.

When IRS announced in 1965 that it was changing the tax averaging formula, the American Bankers Association made a proposal that would have provided banks with a bad debt reserve equal to 6 percent of their outstanding loans. In commenting on this proposal, the Office of the Tax Legislative Counsel of the Secretary of the Treasury wrote in a memorandum:

> Thus, a six percent reserve would provide a short-term tax savings equivalent to a complete tax exemption to the industry over a two-year period at current income levels . . .

Although the Treasury Department wisely rejected the banks' backdoor move to avoid any taxation, the banks have still gained many tax advantages. The bad debt reserve allowed commercial banks for the period 1962–67 to save $3.6 billion in taxes that they should have paid. Largely because of this favored treatment, the effective tax rate for commercial banks is roughly 23 percent as contrasted to 43 percent of all manufacturing concerns, based on 1966 figures. Now, remember, the bad debt reserve is established to take care of any losses that might occur in the bank's loan portfolio; but during the 5-year period, 1966–70, additions to bad debt reserves by national banks alone exceeded actual losses by over $1.2 billion.

This is not the only way that banks beat the tax collectors. One of their favorite gimmicks is the purchase of tax exempt municipal bonds. At the end of 1970, the 100 largest banks in the country held tax exempt bonds of nearly $28 billion, the income on which they did not pay a single penny in taxes.

The bankers have come up with so many tax dodges that a few years ago I discovered that one of the largest banks in the country paid income tax on only about 19 percent of its earnings, and many larger banks paid in tax brackets that were only a few percentage points higher.

FREE MONEY PROVIDED TO BANKS

And what about the billions of dollars in interest-free deposits that the commerical banking system holds for the Federal Government. These deposits, which are commonly known as tax and loan accounts, amount to some $10 billion per year; and the average daily balance over a year's time is about $5 billion. By investing these free funds in short-term obligations, the banks are able to make millions of dollars of income a year through the use of Government funds. This alone should be enough for irate citizens to form a group called Taxpayers Committee To Protect the Government from Commercial Banks.

There is another subsidy that the Bankers Committee To Eliminate Favoritism to Credit Unions has failed to mention in its smear campaign.

Many credit unions operating on military installations are faced with unfair competition from the commercial bank which may be situated directly across the street from the credit union. The credit union must operate without any assurance that it will be successful; but the bank, in many cases, is guaranteed a profit by the U.S. Treasury.

During 1970 alone, the Treasury Department paid commercial banks nearly $4 million for operating banking facilities at 222 military installations in the United States and overseas. In the United States alone, commercial banks operating at 59 installations were reimbursed by the Treasury for any losses suffered in their operations. One of the largest banks in the country, Chase Manhattan Bank, was paid more than a million dollars for operating banks overseas and the American Express International Banking Corp. was paid nearly $2.5 million for its overseas banking operation.

QUESTIONABLE TREATMENT OF SERVICEMEN

And what type of services do the banks perform for our servicemen in order to earn these subsidies? Let me tell you about a letter I recently received from a serviceman's father that may shed some light on what the banks do to earn their money. He wrote that when his son left for Vietnam last year, he left a small deposit in his checking account. After the son returned from Vietnam, he wrote to the bank concerning the balance of his account. He received the brief following letter:

> In reference to your recent letter, your checking account was closed with a service charge.
>
> I trust this is satisfactory. If we may be of further service, please let us know.

The father of the serviceman, after learning of the letter, wrote to the president of the bank and in part said:

> I feel extremely sorry for your bank. It appears that your management is so inept the only way it can make money is to prey on servicemen. It would seem to me that the least you can do when they open an account with you would be to counsel with them relative to making maximum use of the small sum paid to them for serving their country at great risk, and, in my son's case no favors expected. I hope that you recognize that these young people have a great deal on their minds and trust bankers in their town to look out for them by servicing them honestly . . .

The latest report from the Department of the Treasury shows that in 1970 this same bank received more than $12,000 from the Department of the Treasury as a subsidy for running a banking facility at two military installations.

Mr. Speaker, the best way to refute the claims of the Bankers Committee to Eliminate Favoritism to Credit Unions is to publish the truth. To this end, I am including in my remarks a report prepared by the Treasury Department on the subsidies paid by that agency to various commercial banks operating on U.S. military installations both at home and abroad. As I pointed out earlier, many of these banks operate on the same military installation in competition with credit unions. The credit union does not receive any Government backing. Certainly this is unfair competition, but it is the banks who are engaging in the unfair practice.

The report follows:

TREASURY DEPARTMENT,
Washington, D.C., August 9, 1971.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for an updating of information furnished in 1969 about banking operations on United States military installations.

As of December 31, 1970, there were 222 banking facilities operating on military installations in the 50 states of the United States. Overseas, as of the same date, there were 153 facilities, 92 mobile banking units, 12 currency conversion points, 9 travelers check sales points, and 1 check-cashing facility in operation.

Attached are lists of the domestic and overseas banking facilities operating on a reimbursement basis as of December 31, 1970, showing the amounts of reimbursement for the periods indicated. We have grouped all the facilities operated in California by the Bank of America N. T. & S. A., including those reporting gains (bracketed) as well as those reporting losses, because in determining the reimbursable amount these gains or losses are netted. These overseas listings show reimbursements to the operating financial institutions by geographical groupings rather than for each individual operation. This method of presentation is necessary because reports received by this Department covering facility operations in certain countries (Korea, Thailand, and Vietnam) are prepared on a combined basis, rather than facility-by-facility, and because in other geographical areas some functions are consolidated on a regional basis.

Very truly yours,

JOHN K. CARLOCK.

TREASURY-AUTHORIZED BANKING FACILITIES ON MILITARY INSTALLATIONS OUTSIDE THE 50 UNITED STATES

Location	Reimbursable analysis expenses (gains in parentheses) April–December 1969	Calendar year 1970	Remarks
Operated by the Bank of America N.T. & S.A., San Francisco, Calif.:			
Guam	($42,398)	$37,134	Covers operation of 2 facilities and 1 mobile banking unit.
Korea	60,093	(94,058)	Covers operations of 5 facilities; 6 mobile banking units; 1 currency conversion point; and 1 travelers check sales point.
Marianas Islands (Saipan)[1]	(28,338)	(35,228)	Covers operation of 1 facility.
Thailand	65,776	(140,009)	Covers operation of 5 facilities and 1 currency conversion point.
Vietnam	222,594	311,158	Covers operation of 5 facilities; 4 currency conversion points; and 5 travelers check sales points.
Net total	277,727	78,997	
Operated by the American Express International Banking Corp., New York, N.Y.:			
Germany, Greece, Libya, and Morocco [2]	872,080	1,125,940	Covers operation of 64 facilities and 63 mobile banking units.
England and Iceland	(264,415)	(239,643)	Covers operation of 13 facilities and 3 mobile banking units.
Okinawa	(118,616)	(191,469)	Covers operation of 11 facilities.
Japan	271,603	234,455	Covers operation of 9 facilities and 2 mobile banking units.
Taiwan	(22,914)	(65,952)	Covers operation of 3 facilities and 4 mobile banking units.
Philippines	(4,501)	(81,114)	Covers operation of 5 facilities.
Vietnam	691,045	1,659,449	Covers operation of 8 facilities, 2 mobile banking units, and 1 travelers check sale point.
Net total	1,424,232	2,441,666	
Operated by the Chase Manhattan Bank, N.A., New York, N.Y.:			
Germany	(684,178)	(253,701)	Covers the operation of 2 facilities and 1 mobile banking unit.
Japan	548,891	683,159	Covers the operation of 6 facilities, 4 mobile banking units, and 4 currency conversion points.
Thailand	281,915	114,356	Covers the operation of 6 facilities, 1 currency conversion point, and 1 check-cashing facility.
Vietnam	677,585	584,241	Covers the operation of 6 facilities, 4 currency conversion points, and 2 travelers check sales points.
Net total	824,213	1,128,055	
Operated by the First National City Bank, New York, N.Y.:			
Cuba: U.S. Naval Base, Guantanamo	92,337	169,794	
Japan: Camp Zama	[3] (7,564)	(13,777)	Covers the operation of 1 facility, 2 mobile banking units, and 1 currency conversion point.
Philippines: Clark Airbase	(115,577)	(240,028)	
Net total	(30,804)	(84,011)	
Operated by the Bank of Hawaii, Honolulu, Hawaii: Midway Island	13,943	16,579	Covers operation of 1 facility.

[1] Converted to branch status July 1, 1970.
[2] This corporation's Libyan facilities closed May 29, 1970.
[3] The 4th quarter is estimated, based on the average of the previous 3 quarters.

TREASURY-AUTHORIZED BANKING FACILITIES ON MILITARY INSTALLATIONS IN THE 50 UNITED STATES—REIMBURSABLE ANALYSIS EXPENSES (GAINS SHOWN IN BRACKETS)

Location	Operating bank	April-December 1969	Calendar year 1970	Net for period	Remarks
ALABAMA					
Craig Air Force Base	Selma National Bank, Selma, Ala	$2,706	$795	$3,501	
ALASKA					
Fort Richardson	National Bank of Alaska, Achorage, Alaska	12,612	7,247	19,859	
U.S. Naval Station, Adak	do	46,246	18,588	64,834	Report for 3d quarter not available, expenses for that quarter estimated on basis of reports for other quarters of 1970.
ARKANSAS					
Little Rock Air Force Base	First Jacksonville Bank, Jacksonville, Ark	5,980	4,244	10,224	Report for 4th quarter not available, expenses for that quarter estimated on basis of reports for other quarters of 1970.
CALIFORNIA					
	Bank of America N.T. & S.A., San Francisco, Calif.	43,918	(10,910)	33,008	For information pertaining to facilities see the end of this list.
U.S. Naval Air Station, Lemore	Crocker-Citizens National Bank, San Francisco, Calif.	14,673	10,002	24,675	
Oakland Army Terminal	First State Bank of Northern California, San Leandro, Calif.	7,562	(832)	6,730	1970 year figure is estimated on basis of revised report for December quarter.
ILLINOIS					
U.S. Naval Training Center, Great Lakes	First National Bank of Lake Forest, Lake Forest, Ill.	4,296	5,531	9,827	Report for 2d quarter not available, expenses for that quarter estimated on basis of reports for other quarters of 1970.
Do	Citizens National Bank of Waukegan, Waukegan, Ill.	6,860	10,369	17,229	
KENTUCKY					
Fort Campbell Hospital	Planters Bank & Trust Co., Hopkinsville, Ky	2,377	3,740	6,117	
MAINE					
U.S. Naval Shipyard, Portsmouth, N.H	Maine National Bank, Portland, Maine	14,300	15,097	29,397	
U.S. Naval Air Station, Brunswick	Brunswick branch, Maine National Bank, Portland, Maine.	1,280	(487)	793	
MARYLAND					
Fort Detrick	Farmers & Merchants Bank, Frederick	719	835	1,554	
U.S. Naval Training Center, Bainbridge	Cecil National Bank, Port Deposit	10,039	10,634	20,673	
MASSACHUSETTS					
Boston Naval Shipyard	National Shawmut Bank, Boston	$2,235	$2,100	$4,335	Report for 4th quarter not available, expenses for that quarter estimated on basis of reports for other quarters 1970.
MISSOURI					
Whiteman Air Force Base	Peoples National Bank, Warrensburg	4,319	1,005	5,324	

Location	Operating bank	April-December 1969	Calendar year 1970	Net for period	Remarks
NEW JERSEY					
Military Ocean Terminal Bayonne	First Jersey National Bank, Jersey City	23,354	33,380	56,734	
NEW YORK					
Military Ocean Terminal Brooklyn	First National City Bank, New York	18,551	24,491	43,042	Losses netted against gains generated by facilities operating outside the 50 United States.
NORTH CAROLINA					
Camp Geiger	Camp Lejeune branch, First-Citizens Bank & Trust Co., Smithfield.	5,470	6,868	12,338	Considered in combination with Tarawa Terrace facility.
Tarawa Terrace	do	(1,767)	(1,768)	(3,535)	Considered in combination with Camp Geiger facility.
OKLAHOMA					
Altus Air Force Base	National Bank of Commerce, Altus	1,981	3,744	5,725	
U.S. Naval Ammunition Depot, McAlester	National Bank of McAlester	1,640	1,239	2,879	
TENNESSEE					
Stewart Air Force Base	Murfreesboro Bank & Trust Co., Murfreesboro	7,405	1,847	9,252	Facility closed Mar. 31, 1970.
TEXAS					
Perrin Air Force Base	Citizens National Bank, Denison	7,312	5,036	12,348	
VIRGINIA					
U.S. Naval Weapons Station, Yorktown	First National Bank, Yorktown	3,920	1,248	5,168	
WASHINGTON					
Madigan Army Hospital	Fort Lewis Branch, Pacific National Bank of Washington, Tacoma, Wash.	651	2,616	3,267	
Naval Air Station, Shidbey Island, Oak Harbor	Oak Harbor Branch, Everett Trust & Savings Bank, Everett.	0	4,589	4,589	Reimbursable status, effective January 1970.
WISCONSIN					
Camp McCoy	Union National Bank & Trust Co., Sparta	1,774	1,621	3,395	This is a summer training camp operation.
Net total		250,413	162,869	413,282	

CALIFORNIA (BANK OF AMERICA N.T. & S.A., SAN FRANCISCO)

ALL CALIFORNIA FACILITIES OPERATED BY THE BANK ARE SHOWN: A LISTING OF ONLY THOSE FACILITIES WHICH ARE NOT SELF-SUSTAINING WOULD NOT BE MEANINGFUL [1]

Facility	Branch	Reimbursable analysis expenses (gains in parenthesis) April–December 1969	Calendar year 1970	Net for period
Fort Irwin	Barstow	($542)	$1,769	$1,227
U.S. Marine Corps Supply Center	do	(3,258)	(4,700)	(7,958)
Camp Pendleton Mobile Unit	Camp Pendleton	5,298	7,480	12,778
San Onofre Military Facility	do	7,833	12,347	20,180
U.S. Naval Hospital, Camp Pendleton.	do	5,567	7,698	13,265
U.S Naval Air Station, North Island (San Diego).	Coronado	(7,509)	(3,957)	(11,466)
U.S. Naval Air Facility, El Centro	El Centro	807	857	1,664
Edwards Air Force Base	Lancaster	(3,812)	(11,341)	(15,153)
U.S. Naval Air Station, Los Alamitos	Cherry-Anaheim, Long Beach.	3,006	3,366	6,372
U.S. Naval Station, Terminal Island, Long Beach.	1st & Pine, Long Beach.	(2,776)	(4,928)	(7,704)
Castle Air Force Base	Merced	(165)	(6,604)	(6,769)
U.S. Naval Postgraduate School, Monterey.	Monterey	(3,218)	(16,851)	(20,069)
U.S. Naval Air Station, Moffett Field	Mountain View	(9,206)	(31,694)	(40,900)
U.S. Naval Hospital, Oakland	74th and McArthur, Oakland.	2,702	(734)	1,968
U.S. Naval Construction Battalion Center Facility, Port Hueneme.	Oxnard	13,608	6,930	20,538
Pacific Missile Range, Point Mugu	do	8,943	11,149	20,092
U.S. Naval Weapons Center, China Lake.	Ridgecrest	(16,739)	(42,206)	(58,945)
Mather Air Force Base	Sacramento main office.[2]	1,843	0	1,843
U.S. Marine Corps Recruit Depot, San Diego.	Five Points, San Diego.	($632)	($4,246)	($4,878)
U.S. Naval Training Center, San Diego.	do	(2,424)	(2,689)	(5,113)
U.S. Naval Station, San Diego	National-Sampson, San Diego.	(18,866)	(14,460)	(33,326)
U.S. Naval Hospital, San Diego	San Diego main office.	2,515	(3,342)	(827)
San Francisco Naval Shipyard, Hunters Point.	San Francisco	16,856	45,187	62,052
U.S. Naval Station, Treasure Island, San Francisco.	do	22,251	16,577	38,828
U.S. Marine Corps Air Station, El Toro.	Santa Ana	(5,495)	(4,521)	(10,016)
U.S. Marine Corps Helicopter Facility, Santa Ana.	Santa Ana	(10,524)	(15,561)	(26,085)
Fort Ord	Seaside	(7,697)	(10,946)	(18,643)
Presidio of Monterey	do	4,023	6,304	10,327
Travis Air Force Base	Suisun, Suisun City	16,920	18,819	35,739
Sierra Army Depot	Susanville	1,664	1,144	2,808
Mare Island Naval Shipyard, Vallejo.	Vallejo	17,575	22,480	40,055
George Air Force Base	Victorville	5,361	5,763	11,124
Net Total, California Bank of America N.T. & S.A.)		43,918	(10,910)	33,008

[1] Gains (shown in brackets) as netted against the losses shown, as well as against gains and osses in connection with the other essential Government business handled by this bank in California and in overseas areas. Reimbursement is based on the overall net expense.
[2] Converted to branch June 30, 1969.

DEATH PENALTY HEARINGS SET BY JUDICIARY SUBCOMMITTEE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Speaker, Subcommittee No. 3 of the Committee on the Judiciary announces that 5 days of public hearings have been scheduled to begin on Wednesday, March 8, on a number of measures dealing with the subject of capital punishment. These measures raise the recurring question whether the Government of a free and civilized people appropriately puts to death those who have gravely offended against its laws. In recent years there has been a growing but unofficial consensus that this ought not to be done—at least until final Supreme Court decision of all the constitutional issues.

As a result, although the death penalty continues to be imposed, governors and appellate courts have intervened and no person has actually been executed in the United States since 1967. In short, we have entered the fifth year in which an unofficial moratorium on executions has been in universal effect. Meanwhile, with

the courts continuing to impose the death sentence, the number of persons on death row awaiting execution had risen to nearly 700 on February 18. On that day the number was reduced by more than 100, when the Supreme Court of California ruled that:

Capital punishment is impermissible under the California Constitution and that it degrades and dehumanizes all who participate in its processes, is unnecessary to any legitimate goal of the State and is incompatible with the dignity of man and the judicial process.

On the national level, last month the Supreme Court of the United States heard argument in four cases in which the petitioners had been sentenced to death, two for murder and two for rape. The principal argument on behalf of the petitioners was that capital punishment falls within the prohibition of the eighth amendment to the Constitution with respect to "cruel and unusual' punishment. In the normal course of events the Supreme Court decisions in these cases should be handed down late this coming spring. If the Court rejects the arguments on behalf of the condemned men, there is great possibility that chaos will affect the situations of the nearly 600 occupants of death row.

In this context, and to avoid inadvertent mass executions that might attend upon Supreme Court decisions adverse to the petitioners, Chairman CELLER of the Judiciary Committee and Senator HART have, in the first session of this Congress, introduced identical legislation (H.R. 8414 and S. 1969) entitled the "Death Penalty Suspension Act," to suspend the death penalty for 2 years. Identical House measures have also been introduced by Mr. EDWARDS of California (H.R. 8483) and Mr. MCCLORY (H.R. 9486).

At the time of introducing H.R. 8414, Chairman CELLER indicated that its purpose is to give State authorities and the Congress more time to reexamine constitutional and policy issues surrounding the continued use of the death penalty. The bill would stay executions under Federal and State law for 2 years.

H.R. 8414 contemplates the exercise by the Congress of its powers under section 5 of the 14th amendment. The power is most clearly established in the field of equal protection of the laws with respect to discriminations based on race, and it is strongly argued that the death penalty has been the subject of discriminatory application. Furthermore, the bill supports due process of law which, as the Supreme Court has already held, incorporates the eighth amendment's prohibition of cruel and unusual punishment.

In addition to receiving testimony on the Death Penalty Suspension Act, the subcommittee is inviting the authors of a number of measures designed to abolish the death penalty under the laws of the United States. These measures provide for the substitution of life imprisonment in place of the sentence of death. Unlike the Death Penalty Suspenion Act, moreover, these measures in their present form apply only sentences of death imposed within the Federal juridiction. They would not affect a sentence of death imposed by a State court.

Measures in this category were introduced by Chairman CELLER (H.R. 3243), Mr. JACOBS (H.R. 193), Mr. FAUNTROY (H.R. 11797), and myself (H.R. 12217).

Significant, in light of the growing concern over the propriety of the death sentence as punishment, is the fact that although the Senate held hearings on the abolition of capital punishment during the 90th Congress—in March 1968—no hearings on the subject appear to have been conducted on the House side since the 86th Congress—in May 1960. In the circumstances, the subcommittee proposes to make a thorough review of all the implications of the pending legislation.

In addition to congressional sponsors and a representative of the Department of Justice, the witnesses to be called include:

Anthony G. Amsterdam, professor of law at Stanford University, who argued the death penalty cases before the Supreme Court of the United States and also the California death penalty cases; Jack Greenberg, director-counsel of the NAACP Legal Defense Fund, who also argued the Supreme Court cases; constitutional scholars; representatives of the Association of the Bar of the City of New York and its Committee on Federal Legislation, and its Subcommittee on Hart-Celler bill; professors of philosophy, sociology, criminology, and psychiatry, both favoring and opposing capital punishment, and a representative of the Friends Committee on National Legislation and of the American Friends Service Committee, among others.

The hearings will take place on March 8, 9, 15, 16, and 17, in room 2226, Rayburn House Office Building.

ADDRESS BY THE HONORABLE CARL ALBERT—MINUTE MAN OF THE YEAR

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana (Mr. BOGGS) is recognized for 10 minutes.

Mr. BOGGS. Mr. Speaker, I take this time to congratulate you on being named Minute Man of the Year by the National Conference of the Reserve Officers Association and to commend you on the outstanding speech you delivered at the association's golden anniversary banquet last Friday, February 25.

National security and defense policy are topics of top priority in the House. I am inserting your timely and perceptive speech in the RECORD and calling it to the attention of my colleagues.

REMARKS OF SPEAKER CARL ALBERT

Nearly a decade ago, I stood at this rostrum when our association posthumously named as 1963 Minute Man of the Year my old friend and colleague, the late Senator Dennis Chavez. And last February I had the privilege of presenting the 1971 award to the distinguished senior Senator from South Carolina, Strom Thurmond. I did not on either of these occasions suspect that my fellow ROA members would one day deem me worthy of that same award. That they have done so is an honor as warmly appreciated as it was unexpected.

As we all know so well, the Minute Man symbolizes the traditional willingness of Americans to rally to the Nation's defense. For almost two centuries, we have relied upon the citizen soldier when peace was threatened. In the eighteenth century, the Minute Man was supposed to present himself, armed with provisions, musket, and ammunition on thirty minutes' notice. Today, his counterpart in the reserve forces or the National Guard has a few extra hours to prepare himself for war should the call go forth. The weapons have changed; the uniforms have changed. The people have changed, too, of course, in various ways—but the *spirit* of Americans, I firmly believe, has not changed. Faced with a direct threat to our security, I am certain that our modern-day Minute Men would respond as our ancestors did in the past.

The national defense is not limited to the battlefield. It does not consist only of the forces in being. Perhaps the most important additional element involves planning for the future, both in terms of personnel needs and material as well. We of the ROA are particularly mindful of this aspect. We have witnessed the disastrous results of poor planning in the past. It seems to be our practice to rush to disband our forces at the end of every war—only to be caught up soon in another crisis and another war. This happened after World War I and again after World War II. Our policies of the 1920's and 1930's were overtaken by Pearl Harbor and by the fall of Wake and Guam and the Philippines. The road back cost many thousands of lives. Failure to keep adequate forces in the late 1940's was followed by the Communist invasion of South Korea. The road back from Inchon again cost many thousands of lives.

If we pursue policies of the 1970's that are as shortsighted as those I mention, it could be that we will not have a road back. Because the next time in all probability there will be no time to develop the fighting men and hardware. It will not only be the fighting men who are sacrificed "upon the altar of unpreparedness"; it will be the whole country.

What then should be the defense policies of the 1970's? If it could be summed up in one word, I think that word would be prudence. We may apply this to a broad spectrum of defense programs—to weapons systems, to manpower, and certainly to the manner in which we develop our national defense strategy.

While we are hopeful that the Strategic Arms Limitation Talks will prove fruitful, we must be prepared should an arms limitation agreement fail to materialize. In any event, it begins to be apparent that this agreement will be a limited one—at least initially. It is precisely for this reason that Congress has overwhelmingly agreed to proceed with the development of a number of new strategic systems. As you are aware we maintain a triad of strategic deterrent forces. But some of these forces are fast becoming obsolete. For example, our strategic bomber, the B–52, first took to the air in 1954. Even the latest models are now ten years old. For this reason, we are proceeding with the development of the B–1 to replace the B–52. Likewise, in the field of strategic missiles we are replacing old missiles with new ones. The Minuteman I is being replaced by the Minuteman III. And we are replacing Polaris missiles with Poseidon missiles aboard 31 of our 41 missile-firing submarines. Much of the credit for these decisions rightfully belongs to Congress and to the Armed Services Committees of the House and the Senate. It was the determination of Richard Russell and Mendel Rivers and Glenard Lipscomb (to name only three) that the United States have a strong bomber force which has resulted in the decision to go ahead with the B–1 program. All three of

those great men have gone to their reward. But the programs for which they fought so hard are testimony enough to their devotion to our country and to its defense.

We have not forgotten the men in the field. A number of new systems are being developed to support the man who fights our tactical battles. This means new ships, new aircraft and new ground machines. It was owing to the determination of men like Congressman Hebert and Senator Thurmond—both of whom are here this evening—that we should have at least the beginnings of a nuclear-powered surface fleet and that the new aircraft carrier *Nimitz* will be nuclear-powered and therefore more efficient. The same may be said of that ship's escorts. Despite concerted opposition from many quarters in the Administration and elsewhere, the Joint Committee on Atomic Energy and the Armed Services Committees are insisting that the *Nimitz's* escorts should also be nuclear-powered.

Likewise, we look forward to new air and ground equipment. While no final decisions have been made, it would appear that at least some new aircraft will be procured. The most powerful and versatile fighter aircraft in the American arsenal, the F–4, appears to be reaching a point where further modification is simply no longer practical. Exactly what form its follow-on model will take, I do not know. It may be the F–14; it may be some other aircraft. But it does appear certain that when the F–4 has reached the end of its lifespan, there will be an aircraft to take its place.

The basic component of our national defense, however, remains people. The weapons change. Indeed, they change a lot faster today than they ever did in the past. But armies, navies, and air forces are no better than their personnel. As you know, we are in the midst of a great debate about the best way of staffing the armed forces. Some are in favor of an all-volunteer armed force. They believe military service should always be subject to individual volition. Others consider the all-volunteer army undemocratic—a menace. They hold that universal military service is the answer.

When the Selective Service Act of 1967 expired in July of last year, we in Congress had a number of options open to us. We could have simply done nothing—let the system of conscription expire completely; we could have simply extended the terminal date of the act (which, by the way, we did in 1967); or we could have revised the law and extended it for a period of time. In effect, we did the last. We wrote a number of amendments into the law which might be considered a test of the volunteer army concept. We established an enlistment bonus for men who enlist in the combat branches. We provided better compensation for recruiters. Low pay-grade enlisted men and junior officers were given a pay hike. I don't know whether this experiment will work or not, and I have some reservations about the overall cost of an all-volunteer army, but we in Congress believe that the proposal should be tested.

As for me, I believe that every American has a duty to prepare himself to come to the defense of his country should the occasion ever demand. I still believe with George Washington that the best way to maintain peace is to be prepared for war.

Whether or not a volunteer army is established, it appears certain that the reserves will have to be strengthened. Right now, about 52 percent of the defense budget supports personnel, either directly or indirectly. That doesn't leave very much to buy hardware. Some hold that the best response to this may be to cut back active duty personnel. Should this option be taken, it appears certain that we will have to increase the reserve forces, both in numbers and in the quality and quantity of training. There are a number of ways in which this might be done. On this latter subject, I firmly believe that reserve training is far better today than it was only five years ago. We may have to place more emphasis on encouraging young people to enlist in the reserves and to take advantage of reserve officer programs. The draft was a major incentive to enlistment in the reserves, and without such incentive, some special measures are surely going to be needed.

In any event we will certainly have to strengthen our ROTC programs. While today there are many more incentives to participation than in the past, the response of our college and university students has been less than overwhelming. Whether this represents active dislike of any and all military service or simply lack of information about available programs (some of them scholarship programs, by the way) I do not know. I am inclined to think that it is largely the latter. In either event, I believe that we of ROA have a special responsibility here. If the young men and women or various communities have come to distrust the military completely, we have the responsibility of showing them where they are wrong. On the other hand, if our high school students do not know what is available to them, we should be providing them with more information.

I, for one, am convinced that the vast majority of the young people of America are just as idealistic and devoted to the precepts that have made this a great nation as were their forebears. I am certain that given the truth about the problems facing America—and not just the domestic problems—they will respond as readily as their fathers did. We all know that, vast as they are, the resources of our country are limited. This and the mounting deficits which are confronting us have given rise to vast amounts of talk about priorities. Priorities of course we must have, but in a world in which more than a third of humanity—in its basic literature and in its industrial plants and uniformed personnel—is devoted to the destruction of individual liberty and the free enterprise system, the number one priority of the American people is and for the foreseeable future must remain the national defense of our country. As the war in Viet Nam is wound down, our ability to avoid future wars and to win them if they come must not be allowed to diminish.

We of ROA have been fostering the national defense in general and the reserves in particular for the past fifty years. I am confident that the next half century will see ROA continuing the battle for a strong America. A famous British General, Archibald Wavell, remarked a quarter of a century ago that "it is a law of life that has yet to be broken that a Nation can only earn the right to live soft by being prepared to die hard." We of ROA have lived with this precept for the past fifty years. We will continue to live with it for the decades to come.

MAJOR VICTORY ON WAYS AND MEANS MEMBERS' BILLS

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, the defeat today of 18 of the 22 Ways and Means members' bills was a major victory in the fight to reform the rules of the House of Representatives. Today we served notice that we will not allow Members' bills—often submitted for the benefit of only a handful of constituents and often creating new loopholes in our tax laws—to be passed in virtual secrecy and without challenge.

It is wrong for a committee to approve legislation in executive session without hearings. It is wrong to bring bills to the floor on which very little evidence is available and on which very little notice was given.

It is wrong to talk of the pressing need for tax reform one week and attempt to pass new loopholes the next.

It is wrong to bring bills to the floor in violation of House Rule XIII, which requires that all bills contain a specific estimate of their effects on revenues.

It is wrong for a committee to bring up bills under the unanimous consent procedure in order to avoid a recorded vote when it knows full well that the bills could not stand up under a recorded vote.

It is wrong to pass legislation which is clearly designed to benefit only one or two citizens or companies, but which does not specifically refer to them.

Today we serve notice that no longer will bills slip through the House without proper scrutiny and without proper justification. This is a real landmark in the attempt to make House procedures more open and more rational.

ROSS GELBSPAN REPORTS ON THE U.S.S.R.

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the plight of Soviet Jewry has been discussed on the floor of this Congress and in the Nation at large over the last several years. A number of Members, myself included, have traveled to the Soviet Union and reported on our experiences in that country. I visited the Soviet Union in March of last year for 8 days and spoke with Soviet Jews both in Moscow and in Leningrad. I reported my findings to the Congress and I am proud of the fact that as a result of the urgings of many Members of this Congress, Attorney General John M. Mitchell issued a letter of unreserved commitment stating that he would use his parole authority to allow into the United States any Soviet Jew permitted to leave the U.S.S.R. and wishing to come to the U.S.A. I was pleased to welcome at Kennedy Airport on January 5, 1972 the Simion Feldmans, the first Russian family to be brought into the United States under this new policy.

Last year a reporter from the Village Voice, Ross Gelbspan, called me on the telephone, having heard of my trip to the Soviet Union, to tell me that he was going to make a trip of his own and could I recommend families that he might visit with. I gave him whatever information I had. After his visit to the Soviet Union, Mr. Gelbspan wrote four articles for the Village Voice on his experiences in the U.S.S.R. They are superbly written, perceptive, and informative. I urge our colleagues to read them:

SNAPSHOTS OF RUSSIA: GUARDIANS OF SILENCE

(By Ross Gelbspan)

Moscow.—Russia tastes like black salt. In the streets, her old women are terrifying to behold. The snow is early in Moscow this year. It lies like a fine shawl on the smoky, blood-colored Kremlin Wall. They seem to have a

fetish for preserving corpses but flowers are sold openly on street corners. Greetings from across the International Reality Line.

The first thing I realize is it doesn't matter how much I thought I understood socialism. What I feel as palpably as the soggy snow on my cap is how little I understand Russia. In Leningrad there is a massive building about seven stories high and most of a block long, housing an electric power plant. It is typical of late 19th century Leningrad architecture—keystoned window arches, half-columns protruding from the facade. To the building is attached a huge metal relief of Lenin—about three stories high, his coat curled back, pointing the way forward to the masses. It is an awkward graft. Socialist Russia seems such a graft to me.

In Kiev, which is one of the most graceful cities I have seen anywhere in the world, the Lavra Pechersk Monastery was built in the 11th century. My In-tourist guide and I are walking through the cramped clay catacombs under the monastery. She explains that in the 13th century, two monks were buried in the catacombs. Because of the dryness and lack of bacteria at that depth, the bodies did not decompose. When the monks found their dead brothers fully fleshed, they declared them "holy relics." People flocked from all over the Ukraine to the monastery, bringing their treasures to pay tribute to the miracle. The monks improved their methods of sealing the vaults, and in a few centuries the monastery had a collection of 96 holy relics—and enough in tribute to become the center of political life of the whole Ukraine. "In prerevolutionary times," my guide explains, "the people came to worship these bodies as evidences of God's Favor." As she talks, an old, lumbering, babushka-topped woman in front of us stops at a glass-covered coffin. Inside the coffin, a holy relic grins up through his dry curled coffee-brown leathered flesh. The woman takes a handkerchief from her pocket, rubs it over every inch of the glass top, bows slightly, and kisses the handkerchief. I am very moved. My guide is embarrassed. In Moscow every day, 4,000 people line up along one length of the Kremlin Wall—through the Alexander Gardens, past the Eternal Flame of the Unknown Soldier, halfway into Red Square to view the body of V. I. Lenin under glass. A communist I know says the leaders were very cynical to embalm Lenin's body and use it the way they did. But I feel a deeper instinct of this soil is being served.

For the first week of my trip, I was extremely impressed by Sovet society. In Kiev, in Leningrad, in Moscow I saw no slums. The streets are immaculate—ashtray urns every 50 feet along the major streets. Old women in high socks sweep the streets with twig brooms. No slums. A society of minimal disparities in the living standards, at least in the cities. A place where one's health is not a function of how much money one earns. A place where students are paid to learn (under the new Five-year Plan 50 per cent more than before if they study scientific or technical subjects, 25 per cent if they study humanities). A place where rent costs 10 to 15 percent of one's income, where the subways are spotless and the trains run every two minutes. A place where there are apparently few muggings and little street crime (but much drinking. And everyone seems to know someone whose apartment was burglarized and drivers remove their windshield wipers when they park and they use special fitted locks on the car-door handles and, anyway, nobody really knows whether there is much or little crime because neither crime stories nor statistics are ever made public.) Still for a week, I was very impressed by this Russian state where the benefits of the common wealth are equally accessible to all and the few do not grow rich on the labor of the many.

I spent my seventh day in Kiev with a bright, hard-minded enthusiastic Intourist guide named Zoya. We strolled through a chapel, pausing to watch a workman restoring an 11th century frescoed wall. "Why," I ask here, "if the church was so much an ally and instrument of the oppressor class—why do you work so hard to restore your churches and preserve the vestiges of a feudal period?"

"We must never forget who we are," she explains. "We must know where we came from. Not like the rulers in China. There they have tried to destroy the people's memory of their past. But a revolution can only grow out of the cultural traditions of a country. In China they are savages—the rulers. They are trying to build a revolution on shifting sand." We talk of Attica and George Jackson and the Tombs. "I think many of the most politically aware people are in the jails—in any country." She does not respond. I ask her about the Jews. She tells me there is no problem with the Jews in Russia. They are treated equally. They are happy. If they want to leave, they are allowed to leave. All that I have heard is anti-Soviet propaganda. I am angry. I feel betrayed. I have been honest with her about the murders in Vietnam and Attica. She refuses to return the honesty. I look at her: her expression is the same—very earnest, very open. Suddenly I feel a deep chill. She does not know—about the Jews, about the dissidents, about the psychiatric prisons? How could she? How could anybody? Pravda and Isvestia do not publish such stories. There is no right to know here. There is no way to know. There is not even any way for people to know they do *not* know. This is a country of immense, pervasive silence.

Watching a performance of "Swan Lake" by the Bolshoi in the Kremlin Palace of Congresses: the performance is elegant. Dances within dances are staged with consummate integrity. Lavish, the music wells up from the pit and billows through the vast, acoustically perfect hall. One thing only disturbs my evening: the swan does not die. Instead, the spirit of the black swan has its wing pulled off. It flops around on one wing and finally expires. Later I ask the guide—an aggressive 23-year-old girl—about this: "The white swan is not supposed to die. That was never part of the ballet. She is love triumphant. It is only in your morbid capitalist decadent interpretation that love dies." I do not tell her I learned the piece was rechoreographed in 1965. I resist a strong impulse to pull one of her lying wings off.

At lunch with a writer, a man in his 50s: "I can tell you two incidents in my youth that taught me something of the social nature of the Russian character. The schools they set up after the Revolution were very progressive, very democratic. After a couple of years, we began to notice signs of a new rigidity setting in. For example, we all had to stand up when the teacher came in. This was new and abrasive to us. Also we had to line up in twos—military fashion. A group of us began to discuss this. We decided that that since this was a democratic school, we would mention our objections to the teacher. I was elected to be the spokesman. The next day I raised my hand and spoke. 'Well,' the teacher said when I was finished, 'let's see who else feels the way you do.' None of my friends raised a hand. I was sent to the principal. 'I imagine you're pretty pleased, having humiliated your teacher.' I said I was not. I said I was confused because I knew I was speaking for a group of us, not only for myself. 'I see,' said the principal, taking out a pad of paper. 'And what are *their* names?'

"The second instance happened when I was a Young Pioneer. One of the boys in our class dared and goaded another boy into smoking a cigarette in the room when the teacher was out. As soon as the boy lit the cigarette, the first boy snuck out of the room and returned with the teacher. The smoking boy was severely punished. Some of us in Young Pioneers got together and decided to form our own little group to ostracize the provocateur. A few years later when I was entering Comsomol, I told an older boy—a Comsomol member—about the incident. 'Oh yes,' he smiled, 'we knew all about your little group. We have you listed as Trotskyites.' "

The subway: downtown Moscow: 6 p.m.: I am passing between two connecting stations (Marks Prospect and Sverdlova), through a long arched passage about 50 years long. At the far end is an escalator leading down to the trains. The tunnel is backed up halfway with a tightly packed rush hour mob. As I move up to the mass of bodies—about 20 abreast—I am quickly sealed into the pack by a crush of people from behind. For the next 50 yards—about seven minutes—we are all so tightly pressed together I cannot move my arms—the whole pack is rocking slowly from left foot to right foot in unison, progressing about three inches with each step. On my left, a mother and her adolescent daughter are gazing blankly straight ahead, silent. On my right, an army officer, our shoulders crushed together, also staring vacantly ahead. I look around. The entire crowd rocks slowly, relentlessly forward—like a lava flow—and no one looks right or left and, except for the sandpaper sound of shuffling soles, it is silent in the rush-hour subway tunnel.

He is a poet my age: on one wall is a large square mounted photo of Solzhenitsyn. With the relish of a collector, he shows me specimens from his library of samizdat (illegal typescript) manuscripts: "The Inner Circle," "Cancer Ward," a copy of "For Whom the Bell Tolls" with the sections which were left out of the officially approved version. He has an Old Testament which was smuggled in from Bulgaria and a New Testament which a priest once gave him. I give him my copy of "One Flew Over the Cuckoo's Nest." "Perhaps I will translate it and it can be circulated in the psychiatric hospitals," he says. I ask him about his life. "Of course my mail is always opened. They don't even bother to re-seal it sometimes. No I don't read the papers any more. We listen to the BBC when it is not jammed. Leave here? No, I don't think I could. I like to ride buses around the city or take train rides into the suburbs. From the windows, I watch the people. I understand their gestures. I can read their postures, their movements. I know what their facial expressions mean. If I went to another country, I would not understand these things. I would not be able to interpret life, the ancient meanings the people, in their innocence, convey."

The dissident will not leave until we drive away. He stands shivering on the sidewalk, holding up his hand in a frozen wave.

"He is a fanatic, crazy," one of the newsmen tells me, "but he really knows what goes on in this country. Somehow he has tremendous connections."

Our car pulls away. In the darkness, the forced grins of the newsmen melt away. They are worried about whether AP knows the story and whether they will have to file tonight.

On the pavement, the dissident turns back toward his building. His great friends have gone now. He will bear his risk alone. I wonder if he knows what valuable property he is? Or does he really think them friends?

I have heard many stories—some first hand—of persecution here: of the psychiatric hospitals where protesters are injected with drugs which make them insane or vegetable, of the friends who suddenly disappear only to turn up in a Siberian camp two months later, of the court judges who pass unappealable sentences for charges which both judge and defendant know are untrue. I have sat with very brave men and women, people who laugh with the freedom of

martyrs because they know they may be taken away merely for satisfying human needs—to express, to think, to communicate their understandings of the reality around them. They are not hard people; their courage has made them only larger, more human. I have envied them for having so pure and simple a need to fight for. I have cried to see them forced to sit in their own living rooms and talk to one another by passing notes under the blind ear of the state and burning them in ashtrays. I have been inspired by them because their relish for their work is undimmed, because they believe in the future of communism with justice, mostly because they love their people, most of them are prevented by the official guardians of silence from knowing that they even exist. Until you have been in a police state you do not know. Really, you do not know.

The man across the table in the hotel restaurant is well dressed, his hair sleekly combed. He is a well-placed architect and planner and he squints when he smiles at me. "So you are American, Well, tell me about the black problem." I have spoken only a couple of sentences when he folds up his hand in a friendly, conciliatory gesture. "I was only fooling with you. I know about them. I have met some of them here. They are dirty, lazy people. They are too lazy to help themselves. They are not really civilized. Believe me, we would have the same problem with them if they were here. You know," he dips his head, assuming a more confidential tone, "if we were on the same terms—not you and me but our countries—if we really get onto good terms together, the rest of the world will be taken care of." He winks obscenely. "The rest of the world?" I answer. "You mean the tin miners in Bolivia, the South African blacks?" "Ah," he turns away. "They are ignorant uncivilized people. Forget about them. I mean if Russia and America really work together, the rest of the world will have nothing to worry about. It might just happen, you know."

The sculptor is in his 60s. He is short and dumpy. His gray hair fluffs out in ridiculous puffs. He turtles around his studio in baggy, stained corduroys and slippers. He looks like a shoemaker I knew in South Brooklyn—except his eyes are more quiet and very clear. He is not of a political mind: he does not enjoy discussing issues of the day. They bore him a little. Every day he rides the bus from his flat to his studio and he works. The walls of his room are covered with shelves of sculpture: busts and figures, groups, studies. Here is a bearded, regal man sitting on a rock, looking up imploringly at an erect, impassive woman who stares, unmoved, out over his head: it is Ulysses, returned to Penelope, trying to explain who kept him away so long. Here, a man and woman, their hands raised, work on either side of a half-formed female figure between them. The figure is twice their size—a goddess they are creating together. The man's hand seems to rest on the shoulder of the goddess. When one looks closely, one sees that his fingers flow and melt into the figure's shoulder. Here a group of music listeners: three women and a small boy grouped at sliding angles, each in a different tension. The music of the four sounds to my eyes like a Mozart Quartet. I do not know there is snow outside or mouth sounds of an alien language around or free medical care or repression; I forget I am in Moscow and in doubt: it is an interlude of music and I have nothing to cry about, nothing to say.

Six a.m. Riding to the airport to catch an 8 a.m. plane to Paris. In the pre-dawn darkness, the boulevards of Moscow are cozy and peaceful. (Last night the same boulevards were lined as far as I could see with tanks six abreast and armored cars 12 abreast in rehearsal for the November 7 anniversary parade.) Before I left the hotel, I destroyed my notes of my interviews. I had memorized them because I was told not to try to take them through customs. When I arrive at the airport and present my ticket and passport, two men come out from behind the counter and take me to a luggage platform in another part of the building. With compulsive thoroughness, they search every cigarette pack in my suitcase, read every page of every brochure and dictionary I am carrying. One of the men insists on putting my hearing aid in his ear to be sure of what it is. When they are convinced there is nothing illegal in my bags, they take me into a small back room. My pockets are emptied. At last they find it: a small address book in my wallet with the names and addresses of people I visited in Russia.

"Is there anything illegal about an address book?" I ask. "No, not illegal," the KGB man says, "but these names . . . " "Then please return my address book or I will miss my plane." "You can forget about your plane for now." They go away with my book and leave me sitting. After about a half-hour, they return and begin to question me: Who gave you these names? (Friends in America.) Who did you see? (As many people in the book as I had time to visit.) What did you discuss? (We discussed what is wrong in the Soviet Union, what is wrong in America.) What do you intend to do with your information? (I intend to write about my visit here. Does that frighten you?) Finally I tell them that if they insist on more questioning. I would like someone from the American Embassy to be present. They return my book. I am free to leave. One of my questioners seems very angry.

At the Pan American office, the girl reserves space on a 3 p.m. Japan Air Lines plane to Paris. It is confirmed. Everything is in order. I will have no problems.

Free. I walk to the coffee counter in a corner of the massive concrete and glass building, buy some cake and coffee, and sit down at a table. An ecstasy begins to bubble up inside. I have looked the KGB in the eye and answered them honestly and with calm confidence in the rightness of what I have done. I think of the friends I am leaving in Moscow. I am suddenly very sad because I know I probably will not be permitted to return to them. But also I feel strong and slightly euphoric, it is almost a religious moment when I look up and see: a small sparrow swoops down from the ceiling of the building, grazes an empty table top, and flies up onto one of the hands of a huge wall clock. I look around. No one else in the room is looking at the bird, not the old woman mopping the floor nor the three stewardesses at the next table nor the Russian soldier across the room. Only I see the sparrow. And I know the feeling of the sparrow—to be imprisoned ultimately by the huge unliving man-made structure around you, but still to be free to soar within it—to be free and captive in the same ecstatic time. I want to write a poem but I am very tired and I am afraid I will start crying.

It is 2:40. I am sitting in the embarkation area, waiting for my plane to be called, when an airport official comes up and asks to see my tickets. He studies them awhile, then says: "I am very sorry, but you cannot leave unless we keep all your tickets with us, your ticket from Moscow to Paris and your ticket from Paris to New York." What the hell is he talking about? "It is a very technical complication of international commercial air regulations, but Aeroflot is the agent for JAL here, and if we do not keep your tickets, we cannot collect from Pan American." By this time I am walking after him, down through passport control, past the soldiers, to the airline check-in desk. "I'm very sorry, but I cannot help you." He gives my tickets to a woman assistant who looks very sympathetic. "Will you come with me to the Pan Am office? They told me my tickets were in order." "I'm sorry, I cannot leave the area." "Is the airport manager around?" "Unfortunately, he is in another part of the airport."

All of a sudden I begin to understand what they are doing. "If I don't leave on this plane or the next one, my visa will expire and then I will be a political criminal, right?" "I'm terribly sorry, but these are regulations." In a flash of panicky illumination, I step around the sympathetic lady and her assistant and walk to the cashier's window. "How much is a ticket to Paris?" "It is 150 rubles. But there is no space on the plane." "I already have a reservation. Please sell me a ticket. I will collect on the other ticket when I return." The time of signing the traveler's checks, the changing to rubles, the writing of the new ticket: this time is an acid swell—in a distorted gelatinous bubble of maybe time, the time between leaving and maybe not. Are there any more catch-22s between the guard at a passport control and the embarkation gate? The lady needs my visa. We go to the young soldier. He thumbs through the pile of visas on his desk but can't find mine. He begins again. I spot it and pluck it out. The woman looks at the back of my visa and begins to talk very quickly to the other woman. Apparently it is stamped "persona non grata." Is it mine?" "Yes." "Thank you."

I walk through passport control up the stairs to the loading gate. Now I am on the plane. And now I understand how they crush the spirit of all but a very few of their people. They allow them their principles, but they sneak up from underneath with their tentacles of paralyzing technicalities. (Like the Jews, who apply for a visa and then lose their jobs, and then, because it is illegal to be unemployed, are criminals. Like the dissidents, who are judged insane until they change their political idea, locked up with the rest of the crazy people because, legally, it is not a question of politics but of health.) They kill here by a small plucking out of the liver. Only, with the instant acute wisdom of a paranoiac's razor slash, I have cut myself icily free.

Goodbye, Russia. I will miss you anyway very much.

SOVIET DISSIDENTS: ERASED CONVERSATIONS

(By Ross Gelbspan)

Moscow.—"On June 18 Alexander Ginzburg was transferred from Vladimir prison to a KGB investigation prison. He is being questioned by Captain V. I. Korkach, senior KGB investigator. As Korkach carried out a search of V. Bukovsky's flat on March 29, it can be assumed with some confidence that Ginzburg was sent for in connection with this case.

"Leningrad. On June 7 in the special psychiatric hospital the hunger strike of Vladimir Borisov and Victor Fainberg came to an end. It had lasted 81 days. As yet the Chronicle has no information on the prisoners' physical state, the conditions of their confinement, or whether their demands were met.

"Riga. In mid-February, a civil court action was brought by Natan Lozovsky, 31, an engineering economist. During the hearing a member of the public in the courtroom made a tape recording of the proceedings. The judge demanded that the recording be stopped, jumped up from his seat, and, trying to rip out the tape, struck one of those present. The police were called, the courtroom was closed for two hours and four persons detained . . .

"Kiev. On May 21 Israel Klemer, who was carrying a letter from nine Kievan Jews to the national newspapers, was taken off the Kiev-Moscow train at Nezhin in the Chernigov Region. . . ."

This is a page of news items from the current issue of Chronicle, the most widely circulated and popular of the samizdat (self-published) journals of the dissident movement in Russia. It appears about every month

and a half and, although the KGB keeps arresting people it thinks are responsible for printing it, it has continued to appear for over 40 months. Chronicle contains news smuggled out of the camps and psychiatric hospitals. It mentions who has turned up in which prison, who has been transferred from one camp to another. There are verbatim excerpts of trials which show (apparently with scrupulous journalistic accuracy) the ridiculously subjective and repressive techniques of Soviet courts. There are lists of banned films and reviews of samizdat novels and poetry volumes which are currently in circulation.

The dissident movement in Russia (with the exception of the Committee for Human Rights, to be described later) is an unorganized and uncountable body of intellectuals throughout the country who copy and circulate samizdat typescript journals and books, who demonstrate and protest the arrest and criminally inhumane treatment of political prisoners, and who maintain an amazingly thorough and widespread information network.

Pyotr Yakir, 48, the figurehead for most of the democrats, has spent 16 years in the camps. Three years ago he started the civil rights movement with 15 dissidents. Now all but three have been imprisoned. His father, Iona Yakir, was a Soviet general whom Stalin executed in a 1937 purge. When his father was killed, Yakir went to prison at the age of 14. Although demoted several times, he maintains a minor post as historian at the Institute of Historical Studies at the USSR Academy of Sciences. He is a bulky, awesome-looking man, bombastic with a dark beard and black, snaking hair. The evening I saw him, his eyes were piercing and very bloodshot from vodka and sleeplessness. ("Don't judge him by his drinking," a friend asked me, "he has a right with what he has been through.") His hands looked like hunks of bloody meat. They were swathed in gauge and coated with medication. The morning after I saw him, he entered the hospital for a month's treatment of a skin disease. Some of his friends were worried about what they might do to him in the hospital. Yakir himself seems to be able to keep out of jail because he is extremely vocal and because he has such a large number of friends and followers that the authorities are afraid of the public reaction, the embarrassing demonstrations, that would follow his arrest. Still, a friend of his told me: "He is too fearless sometimes. In a way, he doesn't care any more. What more can they do to him? But we hold our breath until he comes out again."

Yakir's apartment—which is constantly bugged and watched and frequently raided—is a dimly lit three-room flat in a large complex in southeast Moscow. He lives with his wife and a constant flow of friends on a couple of shabby, exhausted couches, tables, and chairs. On a living room wall are several medallions and photos of his father—and in the dining room hangs a collection of about a dozen icons, ancient gilt saints against the dirty streaked wallpaper. On one bookshelf is a thick marble engraved disc—as big around as a butter plate—a headstone from Baba Yar. And on the floor, near the dining room table, a large oyster shell is used for burning pieces of paper on which much of the conversation is written and read in silence.

When Yakir talks to Westerners and correspondents, he is urgently enthusiastic about the future of the underground and the prospects for civil liberties in Russia. "I am a pathological optimist. I am sure in the long run society will change. The basic thing is to educate yourself and your friends," he recently told Georgie Anne Geyer of the Chicago Daily News.

But some of his friends say his comments to Westerners are more public relations than realistic appraisals of the movement's future. In March, Yakir wrote an open letter to the 24th Party Congress about the trend toward "the restoration of Stalinist methods of government": ". . . Once more political prisoners are appearing in the camps. Once more 'persons of unsound minds,' for whom the main sign of 'recovery' is an about-face in their beliefs, have appeared in the psychiatric prison-hospitals. Once more public recantations are required and those who do not recant—and sometimes those who do—are demoted, dismissed, and expelled from their institutes. The selectivity and discrimination with which repression is carried out (for equal 'guilt' one man gets off with a reprimand at work while another is given several years in the camps) only underline the arbitrariness and lawlessness of the repression."

One dissident poet tells me heartbreaking stories about the hopeless, spirit-mangling Soviet penal system. He talks of General P. G. Grigorenko: "An older man, self-educated. He has what you call charisma. When one is near him, one becomes very brave even if one is normally a coward. He is a very great, very loving man. When the case of the Crimean Tartars came to his attention, he began to protest." (In 1944, when most able-bodied Tartar men were fighting the Germans, Stalin deported their families in the Crimea—men, women, children, everyone without exception—to remote areas of the country.) For protesting the government's refusal to return the Tartars to their home, Grigorenko has been hospitalized in a psychiatric prison-hospital. "Now they have taken his mind away with drugs. He is tranquilized into near speechlessness much of the time. They give him a pencil stub to write letters to his wife. But as soon as the letters are finished, they take away the pencil and paper. When he asked to keep the pencil, he was told: "What do you need a pencil for? You'll start getting ideas and writing them down which is not permitted in your case.' "

The poet tells another story about Natalya Gorbaneuskaya, a mother of two, a poetess, who protested by carrying a placard during the Russian invasion of Czechoslovakia in 1967. "When her mother went to visit her in the hospital, she brought Natalyia some books as usual. When she saw her, Natalya was so drugged she could only say: 'Books? What do you bring books for? You know I don't read books. I don't like books.' "

It is impossible to estimate the number of political prisoners in the camps and hospitals. Not only are no official statistics available, but many who are imprisoned for political reasons are charged with non-political crimes. It is also hard to estimate the extent or future of the movement in Russia. An American Correspondent told me: "Be sure to emphasize how small it is—and what a small number of Russian people know about it." (It is a very hard fact to sorb unless one has been here, but there is no free overground flow of information. No news of dissident protests or demonstrations is ever carried in Pravda or Isvestia.) But there are signs that the movement is constantly spreading and that it is tremendously tenacious. Most telling is the spread of samizdat literature. I was told that Solzhenitsyn's novels, for example, have a greater circulation in typescript among the intellectuals than any officially published novels.

But it is also hard to know what is really going on, because people are afraid to talk about their activities past a certain point. It is very easy to understand. A passage in the current Chronicle written by dissident Vladimir Gershuni from the Oryol Special Psychiatric Hospital details what happens to those who are arrested:

"March 11, morning: During rounds, just by way of an experiment, I complained about feeling poorly after a dose of haloperidol, and asked that the dose be reduced. This led to my being prescribed even more aminazin than I was already receiving. . . This medicine makes me feel more awful than anything I have ever experienced; you no sooner lie down than you want to get up, you no sooner take a step than you're longing to sit down again, and, if you sit down, you want to walk again—only there's nowhere to walk. By the way, I'm not the only one here who has had this sort of thing happen to him. Everybody has had their life made miserable by triftazin, aminazin, and other powerful drugs. . .

"Friday, March 19: More and more noticeably I'm losing my memory. . . . The story of Victor Prikhodko, who was born in 1936, is also not without interest. This gifted lad who could even reel off Dostoevsky's family tree, a dancer, a singer, tremendously alive and alert, was at one time in the next cell to me. . . . In September he was hauled off to Butyrka prison hospital, where they gave him massive doses of aminazin injections and something else as well. And so it happened that one day he woke up—but not completely. And thereafter he remained in this half-awake state—his head on one side, his speech languid and indistinct, his eyes glazed. He sank into apathy, and all his reactions slowed down. Only now, since he's been taken off medicines, has he begun to recover. He was thus canceled out for five months. Hail to Soviet 'special psychiatry'!"

In November 1970, three prominent Soviet scientists formed the Committee for Human Rights. To an American who is used to the demands of dissident American groups, the aims of HRC seem pitifully moderate: the predictable application of laws by the Soviet courts, freedom to pursue activities which are not illegal but which frequently bring harsh governmental reprisals (e.g., insisting on receiving your mail, talking to foreigners, etc.), some statement of legal rights for psychiatric inmates, a legal definition of what constitutes insanity, freedom to travel, safeguards against governmental discrimination, and four basic rights—freedom of speech, the press, assembly, and freedom of street processions and demonstrations—which are prescribed in the Soviet Constitution but often denied in practice.

Although HRC activities are completely legal, some Committee members have been arrested and questioned, their homes raided, and legal documents confiscated. The group's protection seems to lie in the prominence of its members and the fact that, in meticulously observing legal boundaries, it refuses to go underground or to consider secret activities of any sort.

Valerie Chalidze, a founding member of HRC, and his wife, Vera, live in a large, dusky room in a back street in central Moscow. One wall is covered by an over-stuffed bookcase. There are a couple of icons on the walls, a glass-shelved cabinet full of different crystal specimens, and an out-of-tune piano which Vera will play when they get some money to have it tuned. At present, both are unemployed. A heating coil from a hotplate hangs over Chalidze's desk to warm the air while he works late at night. The room is thoroughly bugged. Despite the fact that all of our conversation was completely legal, some of it was written on an erasable slate. Chalidze is tall, extremely thin. His posture is slouchy, almost indolent. He is a very proud man. He received me in a rumpled, worn black jacket and tie. His speech was abrupt, matter-of-fact—but also extremely precise, as one would expect from a physicist who believes in a science of law.

The HRC, he explains, prepares documents on various areas of human rights which it publishes in a signed, typescript journal called Social Problems. (Social Problems differs from Chronicle and other samizdat journals in that it is not only circulated among the intelligentsia, but sent to Soviet officials—lawyers, judges, ministers—to be stud-

ied. A recent issue, proposing certain appeal rights for psychiatric inmates and proposing legal criteria to determine psychiatric illness, was sent to the Soviet Minister of Health.) "We never get any response from the legal authorities or the lawyers," Chalidze says, "but we know they are studying our documents."

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JEWS IN RUSSIA: "PAWNS, NOT PEOPLE"

(By Ross Gelbspan)

"Under socialism there is no social basis for anti-Semitism. Relations between people have become completely different. There is no longer economic competition which was made use of by the ruling class to foster national discord. . . .

"In angry letters to Pravda and Isvestia, Soviet Jews declare with one voice: 'Our homeland is the Soviet Union. The Jews in our country live together as one big happy family of the 240 million Soviet people. Contemporary Soviet Jews are the children and grandchildren of the Jewish people who after the October Revolution found their one and only Motherland in the Soviet socialist state.'" "Jews in the USSR" Novosti Press Agency Publishing House.

Moscow.—Vladim Slepak is one of the better known Jewish activists in Moscow. His apartment is easy to find: a plainclothesman is stationed in front of the building asking everyone who enters what apartment he is going to. Slepak is not what I expected. Nor are the other active Jews I have met here. I expected older people in prayer shawls and long sideburns. These people are very much like me. Except many of them know less about their Jewishness even than I do, with my Anglo-American suburban upbringing. They are engineers, film-makers, language teachers, physicists. All their lives they have been Communists and Russians. Now they are Jews. Many do not understand what this means—except that they are not Russians in the eyes of the state.

Slepak's living room is sparsely furnished. There is one hanging spider plant and a small tape recorder on a sideboard. On the walls, a photo of Theodore Herzl and one of Moshe Dayan and a map of Israel. On the table between us, a Russian-English dictionary, a pack of Bulgarian cigarettes, and an erasable slate. Slepak is 44, an intense, vital man with large eyes. He used to be a radio-electronics engineer before he lost his job.

"During the late Stalin years," he explains, "the government tried to eradicate all traces of Jewish life and culture. Our parents were so frightened, so silent about being Jews, we did not even know we were Jews. In our homes there were no traces of Jewish identity or culture. Even now, my father has not spoken to me for two years. He is a Communist and was active in the Revolution, I want to leave the country. So he says we are enemies and we do not speak."

I ask Slepak to explain anti-Semitism in Russia: aren't there many Jews who have attained high positions in the Soviet Union? "In the past," he explains, "Soviet policy toward the Jews has gone like this." He draws an oscilloscope pattern on the slate. "When the atmosphere was liberal, many Jews entered the institutes and advanced to good positions. But in the Soviet Union, you must understand that if a Jew and a Russian do the same quality work, the Russian always gets the job or the promotion. In the institutes, the Jewish students must work much harder than the Russian students for the same grades. Still, many Jews have succeeded in spite of the pressures.

"Recently, official evidences of anti-Semitism have been increasing. For instance, it used to be that on one's internal passport" (which all Russians must carry), "one could claim the nationality of either parent. For example, if you had one Russian and one Jewish parent, you could claim Russian nationality for yourself. Now they require you to put down both parents' nationalities. You may claim Russian nationality, but they look at your papers and say, 'We understand. You really are a Jew.'"

The harshest reprisals are directed at Jews who want to leave the country. The first step in applying for a visa (after receiving an invitation from someone in Israel) is to apply for your "characteristics"—a character reference—from your employer or local party committee. As soon as one applies for his characteristics, he automatically loses his job or is demoted to a very low position. Nine out of 10 who apply are fired. If you apply for another job, you are blacklisted as soon as your new employer finds out you have previously applied for characteristics. In the Soviet Union, it is a crime to be unemployed for more than four months. After three months of unemployment you are invited by a state labor-placement officer to take whatever job they offer you. (So people like physicist Joseph Bigun and a Jewish poet named David Markisch are working as bread loaders on bakery trucks.) If you refuse the job the state offers, you are sent to Siberia for three to five years.

Slepak was in charge of a radio-electronics research lab where he directed a team of 35 scientists. When he applied for his characteristics he lost his job. He went to the Geophysical Institute and when they found out about his application they fired him. His third job was in a chemical engineering lab where he was harassed mercilessly. No one spoke to him all day long. He was singled out for impossible work quotas. He was not allowed to come in a minute late or leave a minute early. When his mother-in-law went to Israel, he applied for a two-hour leave without pay (offering to make up the work on his own time) in order to see her off at the airport. Denied. Unable to stand the pressure, he quit two months ago. In two more months he is liable to be sentenced to a term in Siberia.

While Slepak is talking, his son Alex comes in. He is a handsome boy in jeans and denim jacket. As he talks, it is apparent he is a very together person—very tough but also very understanding. "I worry about him," Slepak says. "If I don't rein him in every day he will get himself arrested." Apparently, much of the push for emigration comes from militant Jews in their late teens and early 20s. Alexander talks of friends whose parents have ordered them out of their homes because they want to leave. "I have one friend, Leonid Tsipl, 19, who applied for a visa. When his parents found out, they went to the KGB and signed a letter denying their son permission to leave. They called him a traitor and kicked him out of their house. But I can understand them. Most of the parents would leave themselves if they could, but they are terrified. They can only be certain, if they apply for a visa, that they will lose their jobs, their friends, their place in society, everything. They cannot be certain they will get a visa. Probably they will not."

Having found themselves defined by Soviet society as Jews, many Russian Jews are trying to find out what Jew is. Now they want to learn Hebrew, to study Jewish history, to know what it is they are. But there are no Hebrew books in Russia, except a few the Jewish tourists smuggle in. In Russia it is illegal to publish a Bible and equally illegal to bring one in from the outside. The standard Russian history book contains two paragraphs about the history of Israel from biblical times to the present. The Yiddish-language monthly is a party organ, devoted to praising life in the Soviet Union. Currently there are about 16 ulpanim, Hebrew language study groups, which meet in people's homes. For trying to learn their language and their heritage, many Jews are harassed and, in some cases, arrested on false, arbitrary charges.

In June 1970, when a group of Jews was charged with plotting to hijack a small plane to take them to Sweden, Slepak's apartment—along with those of a number of other Moscow Jews—was raided and searched by KGB agents specializing in English and Hebrew. Personal papers and documents were confiscated. (A friend of Slepak's told me he infuriated the KGB by sitting in a chair, sound asleep, snoring during the entire search.) At the same time a group of Jews who had learned Hebrew applied for visas and were arrested as accomplices to the hijacking. Another group was arrested and convicted on charges of reproducing Hebrew language books. Neither group was guilty, according to people I talked to.

Recently a number of Jews have begun to retaliate with sit-ins, demonstrations, and marches. In July a group of Jews sat in at the Supreme Soviet reception room. For three days they sat in from 8 a.m. to 5 p.m. until the building was closed. Then about 300 Georgian Jews from the group staged a five-day sit-in and hunger strike at the Central Telegraph Office in Moscow, which is open 24 hours. They sent wires to Brezhnev, U Thant, and other leaders. After the fifth day the soldiers came and took them away. No one knew where they were: "Then, in the middle of the night," Slepak explained, "comes Chalvah Dvarashvily, a 26-year-old Georgian, pounding on my door. I let him in and he blurts out: 'The train should be near Tbilisi.' He explains that the soldiers herded the Jews onto a train headed for Georgia. At every stop, they surrounded the cars so no one could get to a station to telephone their location. As the train was picking up speed out of Rostov, Dvarashvily smashed out a window, leaped from the train, hitchhiked back to Rostov, flew to Moscow, and came here to say 'The train should be near Tbilisi.' So we phoned down there and when the train arrived, 3000 more Jews met the train. They all paraded to the local Central Committee office and sat-in, singing Israeli songs. At last they forced the authorities to promise that 60 visas would be issued within the month."

In assessing actions like these, it is important to remember that they take place in a silent country where there is absolutely no publicity or freedom of information. No news of any of these actions ever appears in the press or on radio or television. So when non-Jewish Russians told me that everything was fine with Soviet Jews, that everything I had heard in the U.S. was empty anti-Soviet propaganda, I understood horribly that they were telling me what they believed was the truth. Could it be that all those Germans who said "We didn't know" were telling the same truth?

I asked Slepak how different groups of Jews around the country communicated with one another to keep abreast of developments. "Word of mouth. Telephones," he said. Do the Jews circulate any kind of samizdat new bulletin? "We can write nothing down. It is too dangerous."

"In October," Slepak continued, "a number of us Moscow Jews went to sit in at the Central Committee office, the heart of the government. We sat for some days, requesting an interview with a politburo official. They told us, 'You have talked with Ivanov (a minor clerk). That is enough,' We could tell we were making them nervous. Then about five days ago, a group of us were called into the immigration office. There a KGB official told us that a very few visas would be issued and that the rest of us will be arrested if we don't stop agitating."

"We are helpless," Alexander cuts in. "We can demand nothing. We are in their hands.

We have absolutely no choice in making any decision about our own lives."

According to the people I talked to, the Soviet government is afraid of free emigration for Russian Jews. First, not only the Jews but members of many minorities want to leave. A number of Georgians and Ukrainians have already gone to France and Canada. Many Armenians and Lithuanians are also pushing to go. If so many people leave, it gives the lie to the workers' paradise that Russia is supposed to be. Moreover, many who want to leave are important to Russia's scientific and educational progress. These are scientists, engineers, teachers at the institutes. Finally, Russia uses the flow of emigrating Jews as a lever to put pressure on the Arab nations. If the policy of an Arab country deviates too much from what Russia wants, she releases a trickle of Jews to Israel, playing on the Arab fear of Israeli expansionism, and threatens to release more until the policy in question is changed. "We are pawns here, not people," Slepak says. "That is why we want to leave."

Isse Ginzburg, a friend of Slepak's, is a 49-year-old professor of French. She taught at the Institute of Foreign Languages for 26 years—until about five weeks ago when she was expelled. And, until the same time, she had been a party member in good standing for most of her adult life. While the background of her case is unusually grim, her harassment by the government—being expelled from her job, her invitation from Israel being withheld by the postal authorities—is common to a number of Russian Jews.

In 1966, Miss Ginzburg was traveling to Dubna, a town outside Moscow, with her two sons, 10 and 16. On the train, a convicted robber, recently released from prison, began to yell anti-Semitic epithets at her 10-year-old son. When the party arrived at their hotel in Dubna, the robber was refused a room because he did not have a reservation. Two mornings later, Isse and her older son, Vladimir, were in their room. They sent the younger boy down to the lobby to buy a paper. On the stairs, the boy was accosted by the convict who, in full view of a number of guests, threw the boy over the bannister. He fell several stories to his death.

After a three-month investigation, the detective in charge of the case told Isse Ginzburg the case was being closed because of a lack of witnesses (even though she had several witnesses who were willing to testify) and because the convict was traveling elsewhere in the Soviet Union. (In Russia, where everyone must carry an internal passport, it is very easy for the authorities to pinpoint anyone's whereabouts at any moment.) The investigating judge offered her an official Soviet government acknowledgement of bereavement. She signed the document under threats that things would go hard on her if she tried to pursue the case. A couple of months later, she applied for a visitor's visa to go to Israel for two months to see the grave of her father. She was told by the KGB that she would be granted the visa on the condition that she maintain complete silence about the death of her son. Until a few weeks ago, she honored her commitment. "Now I no longer feel bound to that silence."

Last June, Isse Ginzburg decided to emigrate to Israel. On September 3, her aunt in Israel sent an official invitation by registered mail. Although she has several telegrams and letters with its registration number, the Soviet postal authorities refuse to release the invitation. On September 23 she applied for her characteristics to the local party committee at the institute where she teaches. At the party meeting, she was brutally provoked by a panel of interrogators: "Will you be taking both sons to Israel? Why are you applying for a visa for only one son and yourself?" she was asked. She was goaded sadistically until she broke down and said her younger son had been killed. On the spot, she was accused of anti-Soviet slander, bordering on treason, for questioning Soviet justice. She was immediately expelled from the party. Two days later she was informed that her colleagues had voted unanimously that she did not possess the proper requirements for a teacher in the institute. This, despite the fact that her same colleagues had voted her to a five-year term at the institute only two years before. Because the expulsion vote was unanimous, she was not allowed to appeal to a tribunal.

Her 21-year-old son, Vladimir, is in his last year at the institute. Authorities have told him he will be expelled because of his desire to go to Israel. "They do not want to educate someone for the benefit of Israel," he said. The catch is that as soon as he is expelled, he is unemployed—and subject to immediate military service. Not only must he serve a two-year army term, but he is forbidden by law from applying for a visa for another three years after he leaves the service because of military secrets he might learn. Thus it may be five years before he is even permitted to re-apply for a visa.

Isse Ginzburg recently wrote an open letter to Secretary Brezhnev, comparing the local party meeting to a school child's public flogging. She has received no reply. When she goes to the immigration office, the man smiles at her and says: "Of course you can have a visa. Where is your invitation from Israel?" In this trap of legalized, official torture, Isse Ginzburg is not alone. The story is the same for other Russian Jews.

"My films? It's hard to generalize about one's own work. I guess you could say they are about men in situations of conflict which force them to discover their own moral imperative." Mikhail Kalik, 48, is a successful, highly decorated Russian Jewish film-maker. Three days before I met him, he returned his decorations to the Soviet government in protest of their refusal to grant him an imigration visa.

Kalik is a short, square man with close black hair and dark eyes, extremely energetic. His conversation is partly words, partly a dance of gestures. He sits forward on the edge of his couch, one leg tucked under the other, leaning on a polished walking stick. From time to time he jumps up, paces, and twirls when his thoughts become too intense to allow him to sit. His wife, Suzanne, a plump warm woman, sits next to him on the couch slipping grapes and slivers of cake onto his plate.

"This is a very difficult question: whether I want to go to Israel because of a positive Jewish consciousness or a disappointment with the Soviet Union." He looks at his wife. "It is partly both. Here I have been successful," he butts two fists together, "but it is in spite of being Jewish. It has always been a struggle. There has been a scandal after just about every film I made. Each one, for one reason or another, did not conform exactly to party doctrine. Two were not shown at all. In honesty, I must say I have never really felt free to express myself completely as a film-maker or to exist fully as a Jew. But since I decided to go to Israel, I am very excited about the future, excited to be alive at this time. The Jewish state is still new. It does not yet have a developed cinematic tradition to speak of. I want my coworkers to come with me" (other members of Kalik's crew are also applying for visas) "and we will continue in Israel the great traditions of Russian Jewish film-makers which began with Eisenstein and others 50 years ago."

As Kalik is talking, his cameraman, his assistant director, and several friends file into the apartment, grouping the sofa with their chairs. There is supposed to be an announcement about him on Israeli radio tonight and they have come to listen together. "The hardest thing is to leave the country you were born in, your friends, the graves of people you loved. But I do not belong here. I do not think Jews belong here any more. Jews have always been deeply involved in the great Russian movements, from the Revolution on and even before. But they are still despised. They are treated as inferior people. I don't want to discuss Russian problems. Only that I think it is time we Jews left Russian problems to the Russians."

He sits back quietly. "It's strange. As a child, I didn't know I was Jewish. Then during the Great Patriotic War, my father was killed by the Fascists and I learned about German anti-Semitism. But it didn't disappear after the war. It became Russian. In 1949 I was teaching three film courses at the institute and the KGB came and took me away. I was sentenced to seven years in the camps for being a Jew. I was released after about three years when Stalin died, but in the camp—the way we were treated—I learned what it is to be Jew in Russia. I cannot ever forget that. It must be difficult for you as an American to understand. But in America, if you are Jewish, you have three choices: you can assimilate, you can take part in the Jewish ethnic life, or you can emigrate to Israel. In Russia, the first two choices are closed to us. Some of us—the lucky ones—will be able to emigrate."

Kalik was invited to Israel six months ago. As soon as he applied for a visa, he was expelled from the Society of Cinematographers and arrested on charges of profiteering—making money from one of his films. There was no evidence to substantiate charges, and because a loud protest by writers, film-makers, and journalists from other countries focused so much publicity on his trial, he was acquitted. Now, he says, he does not know when he will get his visa. "But just today I received word—quite unofficially—that I will be allowed to leave sometime in the future. Perhaps there will be details on Israeli radio."

While Kalik and his friends try to tune in the short-wave set, his assistant director tells me the story of his own experience with the government. "I recently directed my first film under Kalik's tutelage. 'The Last Vagabond.' A whimsical film. It is about a thief who is in prison. One day they open the gates and all the prisoners are allowed to leave. But the hero chooses to stay there alone, king of the prison. There he has a great dream. He dreams of a town where there is no crime, no jails. And there are no thieves like himself. It is a light film, eccentric. Totally apolitical. But the authorities decided it did not adhere to party policy so they expelled me from the Society and I cannot get any work. I am considered persona non grata in professional circles."

Kalik returns from the radio. Transmission is jammed tonight. "I have plans for several films I want to make in Israel. One is about Janus Korshak. He was a great Polish-Jewish teacher and writer. During the war, when the Germans occupied Poland, they came to a school where he was teaching a group of students. They demanded that he turn over the students to them in return for his own freedom. He refused. He died with his students. Also I have an idea for a film about a Jewish Don Quixote. Only it will be Don Quixote and Sancho Panza combined in one character. That way I can show the blend of idealism" (grinning, he cocks his head and wiggles his hand fishlike through the air) "and practical instinct that is in the Jewish character."

He stops. "I should not talk too much about my plans. To leave Russia will be a very difficult thing. I don't know what feelings and ideas I will find in Israel. The experience of moving there might give everything a different shape than I expect." He motions to the bedrooms in the rear of the apartment. "Do you want to know the most important reason I am leaving? It is for my nine-year-old daughter and my boy who is 13." He raises his head dramatically, pulls his shoulders

back, and looks evenly into my eyes from across the room. "I want them to stand up like this."

(*Note : About two weeks ago, Kalik was granted his visa. He is now in Israel.*)

RUSSIA: EMIGRATING TO ISRAEL—WHERE DOES A MAN BELONG?"

(By Ross Gelbspan)

Moscow.—Roman Rutman is a funny-looking, intense little man. He is 36 and a trifle nervous and wears owl-round glasses which make his head seem too big. He likes to cross his legs and fold his hands in his lap before he begins talking, and his uncertainty about various English forms makes him uncomfortable when he talks because precision in all things is very important to him. When he gets excited by the conversation, he squirms in his chair and sometimes pops straight up onto his feet. In these moments—when he looks like a 12-year-old boy—it is hard to remember that he is a theortical cybernetics specialist who has invented two calculi. He has invited me to his home to tell me his story because he feels it is representative of the agonies of many contemporary Russian intellectuals in their struggle for spiritual survival.

Helen, his wife, is a bubbly, thoughtful, very warm woman who is too shy to try her English except in small phrases. Their son, Sergei, is 11, a slender boy with thick glasses. Having dutifully shaken my hand, he eases back alongside his mother, listens to my foreign mouth sounds awhile, and then bounds into another room to play. In Roman's studio, Helen and I sit on the couch in front of a table full of fresh fruit and mineral water and a bottle of brandy. Roman hops nervously around the room, mentally composing his presentation. He stops at a window sill behind his desk, reaches into a small mug, and hands me a short length of barbed wire. "From Babi Yar," he explains. It feels hot in my hands. He shows me some of his books and a woodcarving Sergei made. Finally—having mentally stacked the right words in the right order—he sits primly, folds his hands, and begins:

"You may wonder, friend Ross, why I—a successful man, a scientist with a car and two degrees and a good job—why I have decided to leave my country. Or rather to leave Russia, for Russia is no longer my country. As you can see, my library is Russian. I have been educated in the Russian Christian tradition (for although we have had a revolution, the Russian traditions are still Christian ones). And, to me most important, my language is Russian. I have a good job in the field of automated control and my work has been published. Still I must now leave this country. I would like to tell you my story."

He is leaning back in his chair now, his legs apart. Two fingers are pressed against his right temple and his voice is less formal, more pensive. "It begins in 1965 with the trials of Sinyafsky and Daniel. My very close friend is Larissa Bogoraz, Daniel's wife. There were about 30 of us in the circle in those days. When Sinyafsky and Daniel were arrested, my friends and I naturally began to protest. There was a lot of hope in those days. Many of us believed much more freedom was possible in the Soviet Union. Anyway, the Sinyafsky-Daniel protest proved to be the first link in a chain. Soon after their arrest, some more of my friends were arrested. One protest led to another. Just so." (He hooks his two index fingers together and pulls them tight.) "I remember especially protesting the arrest of two editors, Ginsburg and Galanskov. They published the 'White Paper' in the West. I can remember the great great joy—all of us standing in the snow outside the court buildings in sub-zero temperatures. It was January of '67. All day long. We still believed we could change things then. It was a wonderful feeling, all of us together. We felt a great strength, an exhilarating sense of unity." He has been on the verge of smiling. Now he stops, pours himself a splash of brandy, and offers it around. He crosses his legs again. His face is tightened.

"And then came Czechoslovakia. The great shock. But more than a shock. For most of us, a great realization. I, myself, realized very deeply two things. I realized that we had been lying to ourselves about the future all along, that Russia will never have any more freedom than she has now. Her tradition has always been one of absolute power to the state. Her people have no tradition of being independent. They have always let themselves be led by one tyrant or another. It is a need of theirs to have a strong government. The second thing I realized after the invasion of Czechoslovakia was how thin was the layer of people who would really stand up and speak out when the moment came. We had thought there was a great horde of intellectuals who shared our disgust with the savagery in Czechoslovakia. But when it came time to protest, all but seven or eight people fell back into silence. Larissa was really the soul of the movement, I think. When the others thought it would be too dangerous to protest in public, she said she was going ahead anyway and we rallied around her. Now she is in exile in Siberia. My friends and I chipped in to buy her a little cabin. I went out to see her last summer. I'll show you some slides later if we have time. Anyway, to continue.

"After the invasion, everyone was very demoralized. We had seen the unchallengeable brutality of the state and we knew they would use their strength whenever they found it necessary. Nothing any of us could do would make any difference. Around this time, many of my friends began to be baptized. There was a neo-Christian movement afoot and I myself was on the brink of being baptized. But something held me back. I, too, felt hopeless about the future here. But more than that. I felt an irreparable separation—like the cold space that settles after two lovers split apart. All my life I had loved my country and then hated her, then loved her and then hated her again. Now I felt nothing for Russia. I could see her for the first time quite dispassionately. This was a new and very real vacuum in my life. I began to ask myself some larger questions—perhaps you could call them religious questions. I began to think about a man's place in the universe and in relation to the rest of mankind. Do you know what I mean? Where does a man belong and what should be the meaning of his life—more than political questions."

He stops, picks up the piece of barbed wire, and begins twirling it in his hands. Helen and I swap cigarettes, a Winston for a Bulgarian. He replaces the wire. "I don't want to give you all my thoughts. It would take too long, and besides, I want to find out what you think. But, simply, the way I reasoned was: a country is a community of people living in the same area of space. In that sense, I am a Russian. But there are also communities in time, communities of traditions within history. And I realized that I really do not identify with Russian ancestors. I cannot honestly see myself as a figure in the stream of Russian history. I do not feel I belong to it. The Russian traditions are things I have been taught. They are not things I feel natural in myself. The great figures in Russian history are people I can admire but not identify with. They were moved by things that do not move me. I have always been treated as someone apart, being a jew. Even though I knew nothing of the Jewish religion until recently—and I am not a religious person in the conventional sense—and even though I have been as I told you successfully, still I realized I have always been regarded as a person of a lower order. I realized I have never been accepted as a Russian—I guess I always knew it but tried to ignore it. But also I realized that I have never really been able to accept the culture of Russia as my own.

"So I have been studying something of Jewish history. From what I know, I think I can identify myself much more naturally in Jewish traditions. Anyway, I want to be with people I feel are my own. I think the Jews are my people. I know the Russians are not. I am no longer a particpant in Russian society and I feel very good about that. It is like suddenly telling the truth after a long, long time of acquiescing to a lie. Perhaps I am all wrong. Perhaps in Israel I will feel the same alienation as I feel here. But I hope I will not." He pauses. "You know what frightens me most about leaving Russia? Giving up the language I was born in. Having to learn a new and foreign language will be a very alien thing. Especially, I guess, because I am a little poet—I like to write songs and sing them to my friends. And it takes a long time before one can write poems in a new language." He stops and looks at me a long time. "Anyway, tell me what do you think?"

I look at this man I have never met before. He could be a counter-self in the eastern hemisphere. I think: Thomas Jefferson, Lincoln, Thoreau. I have read them and been inspired by them. Do I identify? I have—in a way, with the Pilgrims, with Thoreau. But it is not an important question to me. I feel at this moment very close to Roman, but there is something in his story that is not in my own. "It is hard to say what I think, Roman. I cannot judge. I am not Russian. To me, feeling alienated is the price one pays for trusting to one's own perceptions and believing in one's own ideas. They make you different from other people. But I do feel very much an American. Even though I despise many of America's values. For me to look to Israel for my identity—to define myself mainly as a Jew—would be to avoid facing the existential contradictions of my environment. I would feel as though I were retreating from the complexities that make up my reality, my consciousness. But I am not Russian, I can only try to guess at the full feeling of your experience.

Helen and Roman speak in Russian a few moments, then he says: "Helen says—and I think it may be true—you do not understand the kind of political pressures we have here. From the time we are young, we are drilled and drilled to believe in the great socialist revolution. We are taught to believe that the state exists to elevate man to his rightful place, his true self. But in practice, it is a great lie and only the most unconscious people are not aware of that. But you cannot get away from being pressured to live in a way that often goes against your own humanity.

"For me personally," he continues "it is not such a great problem. The local committee member comes around and tells me I must vote in the election. But the election is a farce and I refuse to take part in it. Personally, I can get away with this because I have a fairly prestigious position. But I think a lot about Sergei. Already I can see the strain in him. From the age of six, he has had to lead a double life. In school he must repeat what they tell him to repeat. He must pretend to believe it. But without our telling him differently, he knows instinctively it is not true. When he comes home, he makes fun of the ridiculous things they tell him in school. That disturbs me very deeply. I do not want my son to grow up to be a cynic. These are the kinds of pressures I am talking about." He pours three more small portions of brandy. "Of course, things have improved. Twenty years ago, I would have gone straight to jail merely for having you in my home. But they have not improved all that much. You Westerners," he grins, "you have freedom so you are not aware of it. Like a fish is not aware of water."

"There are pressures in the United States also," I say. "Very strong pressures. True, there are freedoms—more freedoms than I realized before I came here—but you must not idealize the United States, Roman. The pressures are different. Not like the ones you feel here. For example, in New York they have just murdered a group of prisoners who revolted because they wanted fresh food and habitable cells. Because they wanted to be treated like humans. It was the prisoners who were human and the authorities who were the murderers—like your government in Czechoslovakia. In America, one walks through squalid, degrading neighborhoods such as you do not have in Moscow and one's heart screams out because one cannot change it. And those who could change it will not because they are too selfish. One watches the American war machine in Vietnam, murdering thousands of people who want to be left alone—and one is helpless unless one is ready himself to become a murderer. In America, the despair is very great. America is partly a terrible, dehumanizing money machine which grinds people's aspirations into cheap, gaudy plastic packages. It rewards people's selfishness and turns its back on those who follow a higher social consciousness. The pressures in America are maybe more insidious: because the enemy is less visible than here it makes you feel more impotent."

Roman keeps coming back to freedom. "At least you can know what your government is doing. At least you can protest without being taken away."

"Generally, that is true. But in some things my friends and I are no longer even able to trust what we read in the press. The government has lied so much about the war and about the repression of the blacks. One reason I was so eager to come to Russia was that I did not know if our whole view of the Soviet Union was tainted by S. propaganda."

"Well?" he cocks his head. "Was it? You have seen some of Russia. You have seen Kalik and Chalidze and Yakir and Slepak. Will you remember what you have seen?"

"I am afraid I will remember nothing but my emotions."

We stand. He laughs and grasps my hand. "A friend in Israel has written that of the new arrivals there the Russians and Americans seem to understand each other best. Maybe it has to do with both countries being so large. Who knows why? But I feel he is right after tonight. I am very glad we have met. In another time and place we would be the closest friends. Let us hope in the future . . ."

"Well, we certainly have to see each other again—if only to continue our discussion. A lot of things were not resolved. Who knows? Maybe some day I can come to Israel to write a series."

"Perhaps in Israel. As for the unresolved things: I think sometimes only the scientific questions are ever resolved—and even these only temporarily. There is a line from Pasternak. You must remember it until we can meet again: " 'To live a life is not to cross a field.' "

WE MUST NOT FORGET THE CHILDREN IN THE WILLOWBROOKS OF THIS COUNTRY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the whole country has been made aware of the horrible conditions which exist in some of the New York State schools for the mentally and physically retarded.

One cannot really appreciate what is involved unless one makes a personal visit to an institution which houses retardates. It is simply overwhelming to see the wards filled with children, most of whom will never lead a life outside of the institution. Even while in the institution, they are too often left to vegetate.

As the result of my own visits to two institutions, the Queens State School and Gouverneur State School; and after having participated in a rally at Willowbrook with parents and others interested in focusing public attention on the demeaning and sometimes barbaric conditions in institutions like Willowbrook, I have tried in a small way to deal with some immediate problems.

At this point I must confess frustration and a feeling of despair. I now have reference to two matters involving two children, one 9 years of age and one 11 years, who are institutionalized at Willowbrook as mental retardates, but who, in the judgment of two people who have seen them are in fact, not mental retardates. I have asked the Supreme Court of the Borough of Richmond, City of New York, to investigate the matter and I must report that in my judgment the response has been inadequate and calloused. I shall let the correspondence speak for itself and will include other correspondence had with others than the court, some of which remains unanswered.

I want to note at this point that some of the letters from the court carry the marking "highly confidential." I have advised the court that I only consider as confidential those matters which appear in the letters of the court relevant to the identity of the children and their parents, but will not consider myself bound by that marking insofar as commenting upon and indeed, criticizing, the statement of policy of the court as enunciated in the correspondence. The correspondence follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATVES,
Washington, D.C., February 7, 1972.

JOHN E. CONE,
Administrative Judge, County Courthouse, Staten Island, N.Y.

DEAR MR. JUSTICE: I should like to bring to your attention a matter which cries out for your intervention. It concerns Willowbrook State School which has been the subject of much attention recently in the news media.

My letter is not intended to assess blame for the horrible conditions in that institution. Rather, I am concerned about the lives of two young children (and perhaps of many others also who might be suffering the same fate) and about the provision of minimal services which are mandated by State law and the Federal constitution, but which are now denied to hundreds of mental retardates.

First let me address your attention to the two children. Their plight is described in an article which appeared in the Village Voice of February 3, 1972, authored by Joe Flaherty, a reporter who I know personally, and one whose judgment and accuracy of reporting I can vouch for. His tour of the institution was made with Malachy McCourt, a stepparent of a child in Willowbrook, and a person who I have met and for whom I have a high regard. The article is enclosed. It describes the two children who are apparently of normal intelligence but have been placed in Willowbrook. Their disability is apparently limited to a physical impairment of their bodies—not of their minds.

Surely, if 9 and 11 year old children are kept under these circumstances, their minds will ultimately succumb and they will indeed become retardates. I write to you because I believe it is not only within your power but indeed an obligation of your office to immediately assign a Justice of the Supreme Court to interview these two children and examine their medical records; and if they are indeed not retardates, to order their removal from Willowbrook for placement somewhere more suitable for their physical disability, a place where they will receive the education required by state law for all children under 18 years of age in this state whether disabled physically or mentally.

This situation reveals the urgent necessity to implement a continuing diagnostic review procedure in institutions such as Willowbrook.

My recollection from the days I practiced law is that Supreme Court Justices are regularly assigned to Kings County and Bellevue Hospitals to conduct sanity hearings for patients alleged to be mentally disturbed. I believe that a similar practice should apply to institutions like Willowbrook as well—indeed it is perhaps of even greater importance because we are often dealing here with children who are orphaned, if not physically at least spiritually. It is of the utmost importance that the courts protect those who are now wards of the state—especially when it is the state which appears to be guilty of assaulting and victimizing these very minors.

Therefore, I would suggest that the Court should conduct a regular schedule of diagnostic review hearings at Willowbrook. These hearings should be conducted with qualified medical personnel and, whenever possible, with the patients' parents or legal guardians. I believe that every patient should have such a diagnostic review hearing once a year at the very least and more frequently if possible. This is a very important matter for it is generally acknowledged that the condition of a retardate usually deteriorates after long periods of being institutionalized, and that many presently confined to places like Willowbrook could successfully rejoin normal community life if provided with basic supportive services.

On another matter relevant to the Willowbrook situation and in which I feel the Court has a role to play, State law requires that every child under the age of 18 receives an education and that includes retardates. That education is not being provided at Willowbrook. The Court could wait until lawsuits are brought but each day pending the institution of such laws suits is condemning those maintained as they are in Willowbrook, without adequate facilities for the care of the body and none for the mind, to a living hell on earth.

In totalitarian societies, like Nazi Germany, the courts cooperated in condemning the physically impaired and retarded to death. One way our democratic society distinguishes itself from the Nazi is by requiring that those who become wards of the state because of physical or mental disability, or both, should be protected and provided for by the State. The State of New York is failing in these responsibilities and the Court should intervene, on its own motion, to compel the State to do its duty.

I hope the two young children, x and y, will be immediately seen by a Justice of your court and that measures will be taken to have every patient in the institution seen by a Justice and their medical records reviewed to see which patients do not belong in Willowbrook; and to require by court order that every child receive an education commensurate with that child's ability to learn.

I would appreciate knowing what, if anything, will be done by your Honor in these matters.

Sincerely,

EDWARD I. KOCH.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 18, 1972.

JOHN E. CONE,
Administrative Judge, Supreme Court—Kings County, Supreme Court Building, Brooklyn, N.Y.

DEAR MR. JUSTICE: Miss Ruth Altman of my New York office telephoned the last names of my two children referred to in my letter of February 7th to Mr. Kelly of your office.

I do hope you will keep me informed on the outcome of any investigation with respect to the care of these two children.

I would also appreciate your advising me as to what, if anything, will take place regarding my suggestion that regular inspections of the institution be made by a Justice designated for that purpose.

Sincerely,

EDWARD I. KOCH.

SUPREME COURT OF THE
STATE OF NEW YORK,
Brooklyn, N.Y., February 18, 1972.

Hon. EDWARD I. KOCH,
26 Federal Plaza,
New York, N.Y.

DEAR CONGRESSMAN KOCH: Receipt of your letter dated February 7, 1972 is hereby acknowledged.

Your letter was received at this office on February 14 as it was addressed to the County Court House, Staten Island, New York. Your request for an investigation of certain Willowbrook commitments was further delayed due to a lack of necessary information, which your office subsequently furnished on February 16, 1972.

At my direction Judge John Garbarino, a justice of this Court, assigned to Special Term Part II, Richmond County, is investigating the commitments of X and Y, minors, and upon completion of said investigation he will report his findings to you.

Very truly yours,

JOHN E. CONE,
Administrative Judge.

SUPREME COURT OF THE
STATE OF NEW YORK,
Brooklyn, N.Y., February 18, 1972.

Hon. EDWARD I. KOCH,
26 Federal Plaza,
New York, N.Y.

DEAR CONGRESSMAN KOCH: Receipt of your letter dated February 7, 1972 is hereby acknowledged.

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Very truly yours,

JOHN E. CONE,
Administrative Judge.

SUPREME COURT OF THE
STATE OF NEW YORK,
New York, N.Y., February 18, 1972.

Hon. EDWARD I. KOCH,
Room 3139,
26 Federal Plaza,
New York, N.Y.

DEAR CONGRESSMAN KOCH: Your letter of February 7, 1972 to Justice John E. Cone, Administrative Judge of the Second Judicial District, has been referred to me for reply. Judge Cone was rather concerned about the contents of your letter and asked me to make inquiry into it at the earliest possible moment. I have attempted to do so.

My first concern was the mode of admission of both X and Y, the two retardates about whom you wrote, and to whom Flaherty referred in his Village Voice article. I called Dr. Hammond personally and requested he give me some information about both of these residents of Willowbrook.

About X, I ascertained the following: That he was born on December 13, 1962 and was admitted in 1963, when he was just about one-year old. The youngster has spina bifida, has an arrested hydrocephalus condition, he is spastic, he is incontinent both as to bladder and bowel movements, he is not ambulatory, and has a current I.Q. of 72, which is the highest rating given to this measurement he has ever had. At the time of his admission, his I.Q. was considerably lower and it has improved modestly on each succeeding measurement to its present status of 72. Parenthetically, the intake cut-off I.Q. at the present time is an I.Q. of 69.

Dr. Hammond, in reviewing the record with me over the telephone, indicated that he has exposure to a teacher every day in an educational program that is somewhat tailored to his capacity. The latest report in the record from the teacher indicates progress in adjustment to his over-all condition, rather than academic progress. I have further ascertained that his parents, Mr. & Mrs. X reside at Flushing, New York. There is a record of frequent visitation by the parents and an apparently good rapport between parents and child and the Institution. It is rather significant, in view of the points raised in your letter, that this youngster was admitted at one year of age on the voluntary application of his parents, as was young Y.

As to Y, the other resident at Willowbrook about whom you wrote, I have ascertained the following information: That he was born on June 26, 1960 and was admitted to Willowbrook on July 27, 1961. Again, a situation where he was approximately one year old. The physical condition of this resident was described as being very poor in general; that he had a herniation of his lower back; has congenital hydrocephalus, suffers from cerebral palsy, is spastic, is a paraplegic, is not ambulatory and incontinent as to urine. The records of Willowbrook indicate that on the last intelligence quotient measurement made in 1968 he was rated at 55, which is far below the cut-off intake figure currently employed at that institution today. He is in the same building as X and, as is the case with X, has daily exposure to an educational teacher. His parents are Mr. & Mrs. Y, New York, New York 10002. The record does not reveal, as in Michael's case, frequent visitation by the parents, but does yield the information that they frequently send gifts of toys, etc., which are received at the Institution and given to Y.

In response to my question, Dr. Hammond indicates that both boys are seriously handicapped and would present an abnormally difficult problem for home care. He knows of no institution, State or otherwise, to which they could be sent if desired by the parents. He knows of no interest by the parents in any change of institution.

The thrust of your letter to Judge Cone was that the Supreme Court should assign a justice to interview the children and, if found not to be retardates, to order their removal from Willowbrook to some more suitable institution, which would meet their physical and educational needs. Investigation by the Court here has confirmed Dr. Hammond's statement that there is no subsidized institution in any of the three levels of government which has such a facility, assuming there would be need for facilities other than those provided at Willowbrook.

It is the further concern of this Court that your suggestion for initiating judicial review of their commitment seems inconsistent with the Mental Hygiene Law and our powers thereunder. The Court has had, as recently as within the past two months, occasion in three separate matters to pass on proceedings brought before this Court relative to guidelines for parent-staff meetings, and for the alleged improper detainment of a resident in two separate proceedings. It seems that it would be an inconsistency for this Court to depart from its role of trier of proper causes, as it would certainly have to do if it were to reach out on its own initiative and bring before it individual cases as to which it has received information.

As a matter of fact, Section 88 of the Mental Hygiene Law creates, a Mental Health Information Service for each Judicial Department of the Supreme Court, which is charged with the study and review of admission and retention of all mental patients under the age of twenty-one years and, in proper cases, to prepare for the court the facts and arguments necessary for a just disposition of grievances arising from their care and stay at such institutions. Though not strictly encompassing of mental retardates, it may be that the Dept. of Mental Hygiene or Appellate Division may see a basis for including mental retardates in the scope of this service's function. It is also provided in Section 131 of the Mental Hygiene Law that the Dept. of Mental Hygiene itself has the duty of inquiring into problems brought to its attention of improper detention at any one of its facilities. There seems no statutory basis for the courts initiating on its own motion any course of court action that would redress an improper situation in mental retardation institutions.

Your reference to sanity hearings conducted at Kings County and Bellevue Hospitals for the mentally disturbed is statutorily based. There is no statutory basis for a similar practice with mental retardates. This may well be an area where the law should be extended, but as of the moment, it does not reach that far as to encompass retardates.

I had suggested to Justice Cone, and he agreed with me, that I would write you directly of my views of the contents of your letter. This is, of course, by no means to be deemed by you as a full answer, but points out some problems that would confront Justice Cone had any serious attempt at implementation of your proposed remedies been undertaken at this time. It is my judgment that cases must be presented to the Supreme Court by other than justices, and the Mental Hygiene Law so provides in the aforementioned sections.

Relative to your final comment that it would be desirable for not only *x* and *y* but every other resident at Willowbrook, to be seen by a justice there and records reviewed to see who belongs there and who does not, I would suggest that a Moreland Commission would probably be the most feasible mode of implementation of this purpose, and it is my opinion that the request for such Commission should be made by other than the Justices of this Judicial District. I know of no statutory basis for the Courts undertaking of this inquiry.

I trust that this letter, which I deem to be in the nature of an intermediate reply, proves constructive. Congressman Koch, I do not believe it necessary to remind you that the contents of this letter must be deemed to be highly confidential, and I request you regard it as such. You can rest assured of my cooperation with Justice Cone in anything you and he decide as a course of action in this matter.

Very truly yours,

JOHN A. GARBARINO.

SUPREME COURT OF THE
STATE OF NEW YORK,
New York, N.Y., February 25, 1972.

Hon. EDWARD I. KOCH, M.C.
26 Federal Plaza,
New York, N.Y.

DEAR CONGRESSMAN KOCH: I am responding to your letter of February 22, 1972.

As I had indicated in my February 18th letter to you, Section 131 of the Mental Hygiene Law gives the Commissioner of Mental Hygiene the right to investigate charges of improper detainment of mental retardates, and to issue orders to remedy and abberations his investigation discloses.

It appears to me, therefore, that there is a remedy available to the parents in the event that they concur with you that these children are improperly detained at Willowbrook State School. The remedy that you suggest, namely, the Court's intervening on its own initiative has no statutory basis and would foreclose the performance of our judicial duties relative to litigation involving Willowbrook.

Therefore, I suggest again that the Commissioner of Mental Hygiene be requested to investigate the conditions of which you write relative to these two children. It would be my personal suggestion that the concurrence of the parents in each case be obtained before any action is taken.

I have continued my research of the law since our last correspondence and have discovered nothing to alter my initial conviction that it would be an impropriety for the Court either to investigate or direct the removal of these two youngsters on its own motion.

I trust that this letter will be of some further help to you in implementing your interest in this situation.

Very truly yours,

JOHN A. GARBARINO.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 22, 1972.

Hon. JOHN A. GARBARINO,
Justice, Supreme Court of the State of New York, St. George, Staten Island, N.Y.

DEAR MR. JUSTICE: I have your letter of February 18 for which I am most appreciative. You indicated that your letter was an interim response so I await your final letter with anticipation.

My letter at this time is solely to comment on the two children. I have since spoken with Malachy McCort who has seen the two children on several occasions and who himself has a stepdaughter in Willowbrook and who is one of those who called the matter of the two children to my attention. He tells me that notwithstanding any medical records which may have been read to you to the contrary, those, two children are, in his judgment, not retardates. He is convinced that if you were to personally interview the two children that you would come to the same conclusion. As you can appreciate, I am not able to pass on the medical information but this is a matter of the greatest concern to me. I would not be at peace with myself if I did not exhaust every reasonable possibility to determine whether Dr. Hammond's diagnosis with respect to those two children is correct. If, in fact, they are not mental retardates, then surely the children must be removed from that environment and I believe that the court would have the power to direct that removal on its own motion.

I do want to thank you for the other suggestions which you have made with respect to dealing with the overall problem. I await your response.

Sincerely,

EDWARD I. KOCH.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 7, 1972.

JOHN M. BRAISTED, Jr.,
District Attorney,
County Courthouse,
Staten Island, N.Y.

DEAR MR. BRAISTED: I know you are aware of the conditions in Willowbrook. I believe that the failure by the State of New York to provide adquate—indeed even minimal—services has reportedly resulted in every patient contracting hepatitis, and some patients dying of chemical pneumonia, all of which may constitute crimes against wards of the State by the State of New York itself, and those responsible for carrying out the actions of the State.

The *Village Voice* article (February 3, 1972) enclosed which describes the plight of two children who apparently are not retardates would indicate that they and perhaps others are being held unlawfully in a facility which is not intended for them and which could cause, if it has not already, irreparable damage to their minds.

I urge your immediate investigation of these matters.

Sincerely,

EDWARD I. KOCH.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. February 29, 1972.

JOHN E. CONE,
Administrative Judge, Supreme Court—Kings County, Supreme Court Building, Brooklyn, N.Y.

DEAR MR. JUSTICE: I have received a report from Judge Garbarino, relevant to the two children at Willowbrook about whom I wrote to you on February 7th.

Subsequently I wrote to the Judge asking that he personally interview the two children in question in so far as the Court's investigation was based on a telephone conversation with Dr. Hammond, Senior Director at Willowbrook.

Judge Garbarino's reply to my second letter, indicates he does not feel the type of interview I suggested would be appropriate. I strongly urge you to review the correspondence in this case, for I would hope you would over-rule Judge Garbarino's decision; particularly because of the fact that the IQ of one child is apparently above present admission standards, while that of the other was last measured in 1968.

Judge Garbarino marked both his letters to me, "highly confidential." While I certainly respect this confidentiality with regard to the material concerning the identity of the children and parents involved, I do not feel bound by a sense of confidentiality on that material relating to public policy, and I am acting accordingly.

I hope you will give this matter your earliest possible attention.

Sincerely,

EDWARD I. KOCH.

OFFICE OF THE DISTRICT ATTORNEY,
RICHMOND COUNTY COURTHOUSE,
St. George, Staten Island, N.Y., February 10, 1972.

Hon. EDWARD I. KOCH,
Member of Congress,
Longworth Office Building,
Washington, D.C.

DEAR CONGRESSMAN: I have your letter of February 7, 1972, relative to Willowbrook State School.

I am aware of the conditions existing in that institution and at the present time my office is conducting an investigation into numerous deaths which have occurred there during the past several years.

The basic cause of the present conditions existing in that facility is the lack of funds to provide adequate manpower. In December of 1970, a freeze was placed upon the hiring of employees. As a result of the unfortunate cut in the New York State budget and particularly as it related to the New York State Department of Mental Hygiene, 687 employees lost their jobs. Adding to this number the 300 vacancies which already existed, there is a shortage of almost 1,000 employees.

Adding to this problem is the fact that it is difficult to find people who will seek employment in Willowbrook, especially in those wards where almost inhuman conditions exist.

I would sincerely hope that the Governor of the State of New York and the members of the State Legislature would see fit to appropriate those amounts which are required to provide the residents of Willowbrook with the care and attention which they deserve.

It further accurred to me that Willowbrook might present a situation where federal emergency funds would be available to assist in relieving these inhuman conditions. Please be assured of my full interest in this matter. What further action will be taken by this office will depend upon the results of our present investigation.

Sincerely,

JOHN M. BRAISTED, Jr.,
District Attorney.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVE,
Washington, D.C., February 16, 1972.

EWALD B. NYQUIST,
Commissioner, State Education Department, Education Building, Albany, N.Y.

DEAR COMMISSIONER: We are writing to you about the New York institutions for mental defectives most of which have the title "State School" a term that can only be considered euphemistic considering the inadequate educational facilities provided in these institutions.

It is our understanding that state education law requires every child under the age of 18 to receive an education and that includes retardates. It is obvious that due to inadequate financing and insufficient staffing, retarded children at Willowbrook and probably other state institutions for the mentally defective are not being given an education commensurate with their ability to learn. The State of New York is, in effect, failing in its legally mandated responsibility, and clearly efforts must be made to rectify this situation.

Of course, Willowbrook is the most tragic and dramatic example of the State's failure to provide adequate and humane services for retardates. However, the tragedy is evident even in smaller institutions for retardates. On February 14th, we visited the Queens State School (37–10 114th Street, Corona) which presently has 50 resident retardates with 104 additional patients coming to the institution on a daily basis. Even here the educational services provided are minimal. Residents of that school range from the ages of 16 years old and up and are given adult education classes only one night per week. Furthermore those who come to the institution on a daily basis including many young children receive no formal education due to lack of staff and facilities.

This failure to provide an education to those retardates under 18, only compounds the tragedy implicit in their institutionalization. It is readily conceded even by Commissioner Alan D. Miller of the State Department of Mental Hygiene that a substantial percentage of those now institutionalized could be returned to community life if the State were providing the kind of services needed to assist their rehabilitation. Education is merely one of the rehabilitative services needed; it is one that is mandated by law, and the State's failure to supply an education to these children would not only appear to be a violation of law but a cruel omission which in effect continues the virtual imprisonment in institutions such as Willowbrook of retardates who could and should be returned to a more meaningful and productive way of life.

We urge you to take immediate steps to provide adequate educational facilities for all retarded children under 18 in the State institutions for the mentally retarded.

We should appreciate knowing, if you take the position that we do, that the Department of Education is mandated by law to provide the educational services for retardates and is failing in its obligation at the present time,

what measures will be taken to correct this situation.

Sincerely,

EDWARD I. KOCH,
BENJAMIN A. ROSENTHAL.

No response received to date.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. February 16, 1972.

NELSON A. ROCKEFELLER,
Governor of New York,
Executive Chambers,
Albany, N.Y.

DEAR GOVERNOR: On Monday, February 14th we visited the Queens State School (37–10 114th Street, Corona) for the mentally retarded. Our visit showed us that despite the sensational publicity of late regarding the outrageous conditions at places such as Willowbrook and Letchworth Village, there are institutions where admirable work is being done in the field of mental retardation. At the same time, our visit revealed the tragedy of how much is being left undone as a result of the hiring freeze imposed by the State in December of 1970.

We all know how terribly understaffed Willowbrook is and how tragic the results there have been. But in one sense, it is even more disheartening to see an institution such as the Queens State School which is doing so much to return retardates to a more meaningful and productive way of life but which is used to only one forth of its capacity because of this restriction on hiring staff.

For example, we were told by Dr. Tesse, Director of the Queens State School and an extremely dedicated man, that although the institution could accommodate about 200 residents it presently only has 50 because of insufficient staff. Given the overcrowding at Willowbrook and the fact that there are apparently waiting lists for similar institutions, it is in our estimation unconscionable that a freeze on hiring has been imposed in this area of mental hygiene. In order both to improve services in institutions such as Willowbrook and to expand those services at institutions such as Queens State School, we urge you to lift immediately the freeze on hiring within the Department of Mental Hygiene.

We know you must agree with us that the State's failure to provide adequate and humane services for the mentally retarded is tantamount to imprisoning many of these patients to a life of grim institutionalization which in many cases is unnecessary. Commissioner Alan D. Miller of the State Department of Mental Hygiene himself said that given the proper rehabilitation services, as many as one fourth of the mentally retarded could return to community life.

We hope that you will lift the freeze in this area as soon as possible, and we look forward to your reply on this matter.

Sincerely,

EDWARD I. KOCH,
BENJAMIN A. ROSENTHAL.

No response received to date.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 16, 1972.

ARYEH NEIER,
American Civil Liberties Union,
New York, N.Y.

DEAR ARYEH: I am enclosing copies of two letters which I have sent; one to Administrative Judge John E. Cone and the other, with Congressman Ben Rosenthal, to State Commissioner of Education Ewald Nyquist, which relate to services that I believe the State is required to furnish to retardates. As soon as I receive responses, I will send them on to you, and I hope those responses will indicate that a change in procedure will be effected.

However, independent of that possibility, I would urge you to consider a law suit to compel the State to provide education for retardates and to review the individual cases of those institutionalized on a regular basis. In the event you were to bring such a suit and, if you thought it would be helpful for me to be one of the complainants, I would be delighted to cooperate in that capacity.

Sincerely,

EDWARD I. KOCH.

QUEENS STATE SCHOOL,
Long Island, N.Y., February 17, 1972.

Hon. EDWARD I. KOCH,
Representative from 19th C.D., 14 Washington Place, New York, N.Y.

DEAR SIR: I would like to thank you for the visit you paid to the Queens State School, and express the gratitude of my staff, and myself, for the interest and consideration you have given us.

I am sure that with friends like you, we have a good chance to implement our programs for the benefit of those who need our help.

Very truly yours,

BERNARD TESSE, M.D.,
Director.

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., February 18, 1972.

Hon. EDWARD I. KOCH,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR ED: Thanks for your letter suggesting a possible law suit to compel the State to provide education for retardates.

I have forwarded the material you sent me to Bruce Ennis, an attorney on the staff of the NYCLU and an expert on the rights of the mentally impaired. I expect Bruce will respond to you directly.

Cordially,

ARYEH NEIER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 24, 1972.

Hon. NELSON A. ROCKEFELLER,
Governor of New York, Executive Chambers, Albany, N.Y.

DEAR GOVERNOR: Enclosed you will find a copy of a statement I am making tomorrow with regard to the problem that prevails in the area of mental retardation. I strongly urge you to appoint the Moreland-type Commission which I am recommending and also to support legislation to establish an independent agency that would be responsible for continuous diagnostic review of patients in facilities for the retarded.

I welcome your comments on this matter.

Sincerely,

EDWARD I. KOCH.

No response to date.

STATEMENT BY CONGRESSMAN
EDWARD I. KOCH

Many of the children currently institutionalized at Willowbrook and similar institutions for the retarded should not be there in the first place. According to Dr. Elsie Helsel, Washington Representative for the United Cerebral Palsey Association, over one-third of those so institutionalized could be cared for outside the institutions.

Willowbrook and other State Schools for the retarded have become veritable dumping grounds in which our society has placed and then neglected, children who are handicapped from birth. But many children in institutions for the retarded are not, in fact, mentally retarded. Rather, they are physically impaired in one form or, more often, in a combination of several forms. These patients ought not to be in institutions administered by the Department of Mental Hygiene. Also, many children who may be retarded and who are presently at Willowbrook and similar places could and should be released from an institutionalized setting to lead a more normal life within their community, supported by proper community based facilities. State Mental Hygiene Commissioner Alan D. Miller estimates that as many as one-fourth of those now institutionalized could be released with such supportive services.

However, our society has chosen to avoid the problems of care posed by these handicapped children. Too often children have been simply labeled "retarded" and placed, out of sight so to speak, in a State School. Given the wretched overcrowding and understaffing of these institutions, this is tantamount to being imprisoned for life, without adequate education or recreation, without an opportunity to be rehabilitated, in short without hope.

It is tantamount to imprisonment because the State has failed to provide the needed resources to ensure, among other services, a continuing process of diagnostic review. Virtually everyone admits that prolonged institutionalization hinders rather than helps the rehabilitation of retardates. This point must be obvious to all of us now that the conditions at Willowbrook and some other institutions have been revealed. Yet, the State has failed to provide sufficient means for regularly monitoring and reevaluating the medical histories of patients. Such a monitoring system is essential in order to remove those patients who, in fact, are not mentally retarded to other more appropriate facilities, and to release those patients who are not so severely retarded that they require institutionalization.

Today, I am proposing a way to create an urgently needed system of continuing diagnostic review of patients presently institutionalized.

First: State legislation must be passed establishing an agency independent from the Department of Mental Hygiene with the sole responsibility of monitoring and reviewing the medical records of those who have been deemed retarded. This agency must see that those institutionalized actually receive rehabilitative treatment, and that, for example, retarded children under 18 be given an education commensurate with their ability to learn. This is presently not being done in violation of State law. The State of New York should adopt the law recently passed by the Ohio legislature, The Protective Service Public Guardianship Law, which established just such an independent review agency. The Department which provides the putative services for the retarded, The Mental Hygiene Department, currently has both the obligation to provide service and evaluate its own performance. Clearly, the latter function belongs to an independent agency, and I have contacted Assemblyman Antonio Olivieri (66th AD) about this, and he has indicated that he will introduce the necesary legislation.

Second: Until such an agency is established, the Courts must now intervene to protect the rights of those mental and/or physical incompetents who are wards of the State, but who are being denied their rights, such as the right to an education by the State. The need for this immediate action is illustrated by a shocking case brought to my attention. A recent newspaper report stated that during a trip to Willowbrook, the reporter and a step-parent of a child in the institution found two young children who showed no signs of mental retardation. The horror of such children being incarcerated at Willowbrook boggles the mind. I immediately wrote to the Supreme Court with jurisdiction in Richmond County urging an investigation of these two cases. A preliminary report has indicated that while both children have physical disabilities, the I.Q. of one is above the present admissions level. I believe that the Courts have the statutory authority to intervene on behalf of children such as these to secure their removal to facilities more suited to treat their ailments.

And, clearly, the Courts have the moral obligation to intervene so as to protect these wards of the State who are being deprived of any chance for rehabilitation under conditions as they prevail at Willowbrook. At this point, I have requested the Court to personally interview the two children, and am awaiting the response.

Third and last: A Moreland type investigatory Commission should be set up immediately to review the whole approach of treatment for retardates with the mandate to make the recommendations so obviously needed to restructure our entire method of dealing with the retarded. I have called upon the Governor to appoint such a Commission.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 28, 1972.

LESLIE D. PARK,
Executive Director, United Cerebral Palsy of New York City, Inc., New York, N.Y.

DEAR LESLIE: I am writing to you about a matter which troubles me greatly.

Several weeks ago an article in a local newspaper reported the presence of two children at Willowbrook State School for the mentally retarded, who according to the reporter and a step-parent of a child at the institution, showed no signs of mental retardation.

The thought of children who are not retardates being institutionalized with those who are retardates is an appalling one. In an effort to have this particular situation investigated, I wrote to the Supreme Court having jurisdiction in Richmond County and received a report from the court (based solely on a telephone conversation with the senior director of Willowbrook) that described the childrens' numerous physical disorders. Unsatisfied with this "quasi" investigation, I asked the court to personally interview the children, but this they refused to do. Through the course of my research in this area, I have also been advised that as many as perhaps one third of the children currently institutionalized in State schools for the retarded could be cared for outside the institutions.

Be that as it may, my primary concern at the moment is for the two children referred to above, one of whom has an IQ above current admission levels according to the court and the second who last had an IQ test in 1968.

I would like to know if you can suggest what community based facilities, if any, might be available for treating these children outside of Willowbrook; and furthermore what can be done now to ascertain with greater authority whether or not these two children are indeed retarded. Surely, if they are not so retarded, they ought to be getting more appropriate treatment in a different type of facility.

I am enclosing a copy of my original letter to the Supreme Court on this subject, plus a recent statement on proposals I have made to improve conditions. I would be grateful for your earliest possible comments on this matter.

Sincerely,

EDWARD I. KOCH.

No response to date.

OLDER READER SERVICES ACT OF 1972

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I have today introduced, together with Mr. REID of New York, Mr. SCHEUER, and Mr. HANSEN of Idaho a bill which would amend the Library Services and Construction Act to provide public library services for older Americans.

Our bill, the Older Readers Services Act of 1972, would earmark approximately $50.6 million over the next 4 years in grants to States specifically for programs for the elderly, including: First, the training of librarians to work with the elderly; second, special library programs for the aged; third, purchasing special library materials for use by older persons; fourth, paying salaries for older persons who wish to work on library programs for the elderly; fifth, in-home visits by librarians and other library personnel to home-bound elderly; sixth, outreach programs to notify the aging of programs available; and seventh, transportation to enable the elderly to have access to library services.

An identical bill has been introduced in the other body by the distinguished junior Senator from Texas, Senator BENTSEN.

Mr. Speaker, the 1971 White House Conference on Aging made a specific recommendation on the bringing of library services to our older citizens. The legislation we have introduced today is a response to this recommendation. The White House Conference on Aging took note of the neglect of education programs for the elderly and then declared:

> Education is a basic right for all persons of all age groups. It is continuous and one of the ways of enabling older people to have a full and meaningful life.

Mr. Speaker, for the elderly men and women confined to nursing homes and confronted with a daily routine that may be lacking in emotional or intellectual stimulation, the delivery of books or other library materials can be a window to the outside world. For the elderly who have some mobility, special library programs can be an equally valuable experience.

Library programs, Mr. Speaker, such as the ones authorized by the bill introduced today can help overcome the intellectual and social isolation that for some is a major burden in their later years.

Surely we are beginning to recognize that the special characteristics of our aging population require legislation directed specifically at meeting their needs. In fact, President Nixon on June 25, 1971, in pointing out the unique characteristics of our aging population, said:

> The generation over 65 is a very special group which faces very special problems—it deserves very special attention. That is why we have been moving to insure that our older citizens get that special attention that they deserve.

Mr. Speaker, the Older Readers Services Act of 1972 would recognize one of the special problems to which the President alluded.

In conclusion, let me add that this measure, along with other bills aimed at meeting the needs of our older population, will be considered during hearings which the Select Education Subcommittee will conduct beginning Wednesday, March 1. During coming weeks we shall hear witnesses who will give us guidance on programs affecting one of the most neglected segments of our population—the Older Americans.

THE POLITICS OF PUBLIC UNDERSTANDING

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, in a recent address to the 12th annual Nuclear Engineering Education Conference at Argonne, Ill., Dr. Brewster C. Denny discussed the problem of growing public distrust of science and technology.

Dr. Denny, dean of the Graduate School of Public Affairs at the University of Washington, admonished the scientists to help government, especially at the community level, meet the challenge of public misunderstanding and mistrust of scientific advances.

In his remarks, Dr. Denny argues that public acceptance of both science and government depend upon keeping both of them representative of and responsive to human needs.

Mr. Speaker, at a time when many Americans are becoming increasingly suspicious of—indeed, hostile to—the advances of modern science, it is essential that we in Congress do our part to heighten public understanding of the true nature of science. Dr. Denny's remarks are an excellent contribution to this effort, and I would like to insert them in the RECORD at this point:

THE POLITICS OF PUBLIC UNDERSTANDING

(An address by Brewster C. Denny)

Thank you very much Dr. Marshall. It's a great privilege to address this group. When I left Seattle, some of my colleagues asked me, "Where are you going?" and I said.

"Oh, I'm going to talk to some Engineers again," and they said,

"Oh, you're going out with that 'Take a Social Scientist to lunch' bunch again."

I'm privileged to be here and I'm looking forward to the lunch.

This somehow or other reminds me of a story which comes from another field of affairs. Three of the greatest commanders of all time met in heaven, or wherever it was these gentlemen might have met, following the famous Israeli War and the tremendous success of Moshé Dayan. The first of these great commanders whose name was Hannibal, said,

"I certainly envy Moshé Dayan his great jets. If I could have had those jets, I could have taken Europe. An elephant is not really too good a technological means for winning wars."

The second great commander, Genghis Khan, said,

"Well, gentlemen, I don't bow at all on motive power. I think my cavalry was the best motive power ever used in warfare and I think that I would like to have used it in any part of the world, but I did envy Moshé Dayan his great fire power."

Finally, the third commander, whose name was Napoleon, said,

"Well, gentlemen, I actually don't envy Moshé Dayan anything that he had in that war, but I'll tell you one thing, if I could have had Cairo Radio, I could have persuaded the world that I won the battle of Waterloo."

And I guess in some ways, that's what we're talking about today.

In those now-long-gone days of innocence and simplicity, there was a saying: When dog bites man, there's no story, but when man bites dog, that's a headline.

And so it is today with technology and society, but with a twist. There is rapidly

growing the myth that technology has bitten man, and now man is biting back.

I say it is a myth because the carpenter's saw does not bite the carpenter unless he misuses it. The plumber's wrench does not harm the plumber unless he uses it improperly. Technology does not harm his master, man, unless man directs him to do so.

TECHNOLOGY IS TOOL

I take it I am here to attempt to explain to engineers and scientists and the nuclear industry in general how to persuade the public to build the world's largest nuclear power reactor under Welfare Island where it belongs. I suppose, too, I am also here to tell you why the public will no longer accept the engineer's word that a particular technological solution the engineer has proposed to meet the public's demand—and it is a demand—is not acceptable to the public. Why, when the public demands the power or highways won't they let us just give it to them at the lowest cost and with the most advanced technology and not ask so many questions?

We can begin, I suppose, by reminding one another, as I did at the outset, that technology is a tool at the service of man. This is true, and it is also true that misunderstanding of that fact is at the base of much of the contemporary malaise over technology. It would help if the general public understood this point, but I don't think that mere persuasion or public relations on this is the answer to the problem. The problem is more fundamental than that.

In the first place, I'm not really sure the public reaction is against technology itself. I think it is a reaction against a system of government which supports the technology which can put man on the moon but cannot seem to improve substantially the life of ordinary citizens. The reaction has turned against scientists, engineers, and intellectuals themselves—and we must remember that the new left and the old right are profoundly anti-intellectual—and often against the institutions of government which support them.

Part of the reaction is against what the public perceives as the coziness of a lushly supported science and technology. John Q. Public, who doesn't know the difference between a pi meson and plutonium, has an image of science something like the following: Scientists have been, some think, lushly paid and supported, and in the name of the independence and freedom of science and of national security, are not accountable to the public. Shoddy and second-class work, boondoggles, cost-overruns, and expensive world-wide jet travel have been supported by the public; and instead of inventing the things that man needs to solve his fundamental problems, science has invented weapons of destruction, modern and expensive gadgets which pollute the atmosphere and harm man himself. This careless caricature is widely held. The demagoguery which will make it more widely held is now beginning in earnest. And this is not all, for the anti-intellectual, antiscience attack has moved to the campus itself where most science and most intellectuals are to be found. And here the caricature continues. Draft dodging, effete, protesting, pot smoking, bearded, smelly people lushly financed by the public studying for degrees for which there is no need are inventing useless and dangerous things, but not important things which are needed, and plotting to overthrow the government to boot. Through this caricature runs an overriding thread—the public's feeling that "those people" are simply unaccountable to anyone, are doing their own thing without regard to the public that pays the bill.

I have described the problem in this caricaturing way to emphasize that the problem of this conference is not a problem of science or technology. It is not an engineering problem. It is not a public relations problem. It is first, last, and in between a political problem, and it should be analyzed as a problem of political analysis. It is also a particular kind of political problem—the problem of representation, and participation.

Political analysis on this subject is best done from the bottom up, instead of the top down. It is better to do so, at least, if we are concerned with the political health of a democratic society. We must then look first not at what big science, big engineering, big government, big education have done and defensively attempt to justify it, as indeed we can in large and important measure; but we must look at what the picture of big science, big government, big education, and big engineering looks like from the standpoint of the citizen. For it is there that the political process begins, and it is there that our problem begins.

We have come to the place we are with respect to the public understanding of science and technology and the public tolerance of scientists and engineers because of several profound, if sometimes subtle, changes in our society. I would like to center this discussion on one of these—a particular shifting of the ground as it relates to public understanding of modern technology.

In broad terms the shift I am talking about is from national to local.

Let me explain what I mean.

BIG SCIENCE

Big science, as we have known it in the post World War II era, burst upon the world and upon the American citizen as national, as something really beyond politics, something above public understanding. For big science, as we came first to know it in the closing days of World War II, was national defense, was classified, was esoteric and beyond human comprehension. Big science was radar, the bomb, ICBM, and trips to the moon. Big science was wrapped, too, in the bipartisanship and sense of patriotism which characterized our conduct of war and, for some time, at least, into the post World War era, our conduct of the peace. Our most successful venture into big civilian science was space. But we started that venture at the nonpartisan, international, and really classified level. The very pleasure Americans took in going to the moon was something beyond where they lived, something which transported them from their daily lives, something they saw on the television as entertainment and as fulfillment. And above all, in big science there was mystery and magic.

The evolution in the public mind and image of peaceful uses of atomic energy is instructive. As the *public* viewed it, the federal government possessed on behalf of the people a secret—the secret of untold energy, of uncomprehensible power which could be used for good or evil. One pinch of the stuff could blow up the world. Another pinch of the stuff could warm homes and drive cars and light theatre marquees. Another pinch could cure cancer. The public's early conditioning about atomic energy was so shrouded in secrecy that many still believe that atomic energy itself was a secret to be discovered, protected, and stolen. The cost of overclassifying, oversexing, and "over-eliting" atomic energy over the last 25 years has been terribly high. We all understand how this came about, and that the fantastic wartime Manhattan project required for the safety of this nation and the free world that immense security measures be taken. But the continuation of this and its elitist black-magic "I-know-something-you-don't-know" spirit, and its application to wide ranges of civilian peaceful uses of atomic energy was terribly costly to the health of the American political system. Those who hid behind security and secrecy are understandably having trouble getting the public to understand them.

The early development of peaceful nuclear technology in the United States continued under the shroud of mystery. Slowly the curtain was pulled back. The evils of the bomb were revealed. The public knew what a bomb was. Most thought that a few of them could destroy civilization, and some irresponsible scientists parading their massive guilt complex for inventing the thing in the first place, persuaded the public that that was true. As the late Elmer Davis said, many people didn't know the difference between civilization and real estate. Now, I fear, the scientists is parading his guilt complex that he didn't *explain* science very well.

As the curtain was pulled back, and particularly during the discussion of nuclear testing, fears of radiation—a real and genuine problem—were fanned to a point that it was difficult to remind the general public that radiation was a source of health and a source of energy as well as an evil. Public awareness of reactor technology was whetted by early developments in nuclear propulsion which, as far as public understanding is concerned, tragically never went far beyond that for use by the military. The failure of what the public regarded as a promise of large-scale nuclear propulsion for civilian purposes, either in the air or on the sea, deprived the public of an understanding of nuclear propulsion and nuclear power which would have helped to overcome much of the mystery and fear. The very phrase "atomic submarine" in the broad public mind is an illustration of the problem. To many people this means that the submarine *itself* is an atomic bomb, not that it is simply propelled by nuclear energy and has the capacity of delivering weapons that are ultimately nuclear. *Savannah* could have done things for public understanding that *Nautilus* and *Polaris* could not.

CENTRAL PROBLEM

But the central problem I'm trying to set forth here is that big science, once a part of big *federal* government, now is shifting to impinge upon the citizen, to serve the citizen, and to be controlled by the instruments of government which represent the citizen to a state and local government context involved in partisan politics, close to the people, close to where he lives, where his street is, and to his needs, interests, and fears, and also to his home, his castle. Gradually big science is not behind the gate at the military installation but is on his street, down the block, a competitor for land, for air, for space, for dollars. Local citizens' planning committees, planning boards, city councils, state legislators, nuclear siting councils, etc., are now responsible for making decisions on the many impacts of big science. Big science and big engineering, which serve the public well when financed by the *federal* government at a distance removed from the people, now is in the public's backyard. And the instruments of state and local government must now wrestle directly with its consequences. It is one thing to locate a dual purpose atomic reactor at Hanford, Washington, and to close it last Thursday, on a government installation where a payroll is desperately needed by a sagging economy. It is another to build a reactor on a beautiful island in Puget Sound to add to the power grid of the Pacific Northwest in order to increase the general kilowatts while bringing all of the problems of the nuclear reactor into one community after another.

And so big science has come into contact with the people directly, and most of all into contact with the phenomenon known as American state and local government. Modern technology and state and local government are as mismatched for this confrontation as Muhammad Ali and Tiny Tim.

The very confrontation of big science with state and local government includes some fantastic problems of image and credibility. Consider, for example, that it is the state and local taxpayers, who support the major public universities, who have borne the lion's share of the educational and research cost

of the development of big science and big engineering in America. But they have simply borne that cost by the fact that the federal government looked to those universities as reservoirs of scientific knowledge and ability and then simply levied upon them, by the assignment of expensive federal grants, that didn't begin to pay their own way, the cost for the development of big science. Like federal grant and aid programs in general, local and state government have had little to say about ordering the priorities for which they are expended. Meanwhile at the state and local level, a profound shift in the demand of local citizens for services has taken place largely resulting from the great advances of technology, which bring both opportunities and problems. Thus, as technology and state and local government come closer and closer together, big science and big engineering, used to the *comparatively* efficient federal government, comes in contact with state and local government, institutions in the United States that for the most part have not entered the 20th century, and, in some cases, not even the 19th.

Let me make two simple assertions about contemporary state and local government:

1. State and local government in the United States is ineffective considering the problems it is called upon to solve and may be heading for disaster.

2. In terms of the *Constitutional* guarantee to the states of representative government, state and local government in the United States may well be approaching unconstitutionality.

INEFFECTIVE GOVERNMENT

Surveying the labyrinth of archaic governmental mechanisms, one concludes that local and state government in this country must have been designed for the purpose of being ineffective. State and local government has, by that standard, by and large exceeded its design specifications unlike much of the product of science and engineering, in the 20th century. State and local government in America was designed to deal with a relatively small number of local problems with intervention limited sharply. Yet, in an important Constitutional sense, they were designed to be the most representative part of our government. The very federal system itself rests upon the states and upon a system of representation which depends ultimately on the justice of a republican form of government guaranteed to the states by the Constitution. For all of the 19th and some of the 20th century, state and local government met the public's desire that government be limited. Early reform efforts were aimed at corruption, particularly in law enforcement and public works contracting, not at expanding the scope, responsibility, or rationale or responsiveness of local and state government.

The massive interventions in the private sector which characterized America's response to economic fluctuations, depression, social injustice, poverty, unmet health needs of the poor and the old, and now, environmental pollution, were led by the federal government. They rest upon the power of the presidency, the strongest democratic executive ever created by man, on the representativeness of the Congress, the social conscience of the Supreme Court, and the federal government's early preemption of the best, fairest, and most lucrative tax—the graduated income tax.

Like the child of dominant parents who never let him learn to do or think for himself, state and local government has groped and coped, but rarely led. It also has a special problem. State and local government exercise the major authority over private land and the federal government over public land. But federal land is mostly open; private land is rapidly being occupied. Here again the mismatch of history occurs, for major new programs impinge on private property protected by the Constitution through the states.

Consider the contrast of power and role in the question of school segregation: The federal government has ordered, and the survival of this nation requires, the desegregation of all schools in the United States. Racial segregation in schools now exists almost solely because of segregation in housing, not of schools. But state and local governments are powerless in a political sense, and possibly constitutionally, to order housing and neighborhood patterns which would end segregation in the schools and in the nation. But the federal order to *do* something persists, and the federal power stands firm. So the local jurisdictions must rely on the technology of the bus to do it, and housing remains segregated. This is an illustration of the powerlessness of state and local government.

National recognition is growing that the representativeness of our government, the very credibility of government itself, and the sheer volume of federal programs require state and local government to assume from the federal government both the responsibility and the resources to meet urgent domestic problems close to the people.

President Nixon has advocated a bold and revolutionary program for returning the power and the resources to the people. This is a noble goal and national consideration of this may well focus direct and serious public attention on the adequacy of state and local government to perform these tasks. We will need to look at questions of efficiency and effectiveness of local government, the capacities of its bureaucracies to meet the new responsibilities. In this area federal legislation may be expected, as it has in the past, to insist on much improvement as the price for the transfer of programs and resources.

REPRESENTATIVE

But there is an even more fundamental question. How representative is local government? Let's look at some features of the problem.

Let me illustrate the problem in terms of representation as seen by the citizen himself. In the place where I live I am represented at the federal government level by four persons for whom I vote—my congressman, my two senators, and the President of the United States. That is true also of all United States citizens except those who live in the capitol or in Puerto Rico. These men make all the federal government decisions in my behalf, establish the federal judiciary, as well as the legislative and executive branches of government. They are accountable to *me* for these decisions. I affect what they do by *my* vote, and *my* congressman and *my* senators answer my mail and answer my requests.

But compare the situation locally. Where four big people and one basic governmental organization represent me on all the great national issues, I elect 89 separate officials to perform the same function with respect to state and local government in my behalf. In my county alone, there are 795 elected officials. Although I am active in governmental affairs by virtue of my position, I am frank to say that I can only name a minor fraction of the 89 I personally vote for. The average citizen would be hard put to name 10 percent.

But it is worse than that. This host of elected officials who represent me in the process of local government are apparently not enough, nor can they, in fact, stand by themselves to make all of these public decisions concerning my life and my future. In addition to that, a substantial number of long and complex issues are put on the ballot every year, and in most cases even the most knowledgeable voter can't possibly tell from the ballot description which vote expresses his best interests.

All of these people and all of these issues must campaign and compete for public attention in the public education process, which a political campaign is in the democratic system. And they must raise funds to do this. And so on.

On ballot issues alone, there are terrible injustices in terms of representation. In many places in the Union it takes 60 percent of the public to validate a bond issue. Is this one man, one vote?

Recently in my community we voted on a major bond issue for the development of an urban mass transportation system. The proponents raised a substantial amount of money in order to educate the public on the problem. A ruling on the fairness doctrine by some local attorneys forced two TV stations in our city not only to give free time for the opponents whenever the proponents were given free time, understandably, but in addition to that they had to give free time to the opponents of the measure for every bit of time purchased by the proponents. This kind of problem in the public representative process is severe and difficult and needs urgent attention in our society.

The citizen is genuinely baffled by this maze and array of governments.

Let me tell a simple story illustrating this problem. One of the great House members, Leo O'Brien, of Albany, New York, who represented that district for some time in the House of Representatives, told me that one night he was at home, on a cold Saturday evening, much like the kind of weather we're experiencing here, and the telephone rang at about 8 o'clock when he had finally settled down to relax for a few minutes, in his place in Albany. A man came on the phone and said,

"Congressman, my name is Brown, I live over on Polk St., in that apartment on the corner of Polk and 2nd (I apologize if there really is a Polk and 2nd in Albany) and I wonder if you could help me a little bit."

Congressman O'Brien said, "Sure, that's what we're here for."

So the man said, "Well, as you know, it's a very cold night, sir, and I have no heat in my apartment and I wonder if you could do something to help me."

Mr. O'Brien said, "Well, this is a *little* out of my line but, in an effort to be of all possible assistance, as Congressmen always are, I'd like to suggest that you call the all-weekend watch down at the Building Inspector's office at City Hall. Why don't you call down there? Maybe you can get some help."

And the man replied, "Well, Congressman, I didn't think I'd go that high."

I think this illustrates the sense in which we do feel represented by the people we elect and whose name we know and whose telephone number we know.

There is further evidence of this problem in the desperate search for alternative devices of representation. Take, for example, the ombudsman, the great growth of newspaper columns and now radio and TV Mr. Fixits, environmentalists, etc. The public demands an ombudsman, a person who is somehow above the government, speaks for the citizens, can ask questions, get answers, and hold public officials' feet to the fire in the light of publicity. Closely related to this is the movement towards the development of community councils—groups close to the people in neighborhoods who can discuss specific issues and bring them to the attention of government officials. These developments are symptomatic of the disease. The people simply do not feel represented by the instruments of local and state government. And by and large, they are right. It is interesting that the ombudsman, in the Scandinavian countries from which it is derived, is a federal office, while in this country it is thought of as a local and state one. The reason is, of course, that the framers of the United States Constitution at Philadel-

phia and those who have made the Constitution live for the last 200 years in this country created the job of ombudsman at the federal level in the form of the senator and congressman. Unique among democratically elected parliamentarians, the U.S. congressman performs the role of ombudsman, intervenes on behalf of the individual citizen to unravel the complexities of federal government. Each citizen feels that he can demand that his congressman or senator do it and do it effectively. But at the local level the representation function has to some extent failed, thus the search for a new system of representation through the design of ombudsmen and community councils.

Where the congressman or senator or national association or representative group performs for the citizen the unraveling of federal red tape, at the local level the average citizen must become an expert at the mechanisms of government committees, interagency committees, intergovernmental relations, overlapping jurisdictions in order to pursue any matter which he is interested in. If he goes to a public hearing in which he thinks some issue is being settled finally, say for the building of a freeway next to his house, he is often surprised when the bulldozers come down his street three years later to find out that the hearing did not settle the matter, although he left the meeting under the *clear* impression that the decision had been made not to build the freeway. If he is concerned about roads and freeways, he also finds that a substantial number of public agencies run by nameless persons over whom he has no control whatsoever make the decisions. In my state, for example, the people who run the highway system at both the local and state level are simply not in any sense responsible to any elected public official. At the state level, the Highway Department is not responsible to any elected official. At the city level, recently the Corporation Counsel of the city of Seattle ruled that a city official, although appointed by the Mayor to head a city department, was not responsible to the Mayor, or, as far as I can see, to anyone else, for his policy decisions.

Citizens think that when they elect a mayor or a governor, they are responsible for carrying out the policies which their representatives develop. Such is rarely the case with respect to a substantial portion of state and local government.

CITIZENS CONFUSED

It is small wonder that the citizen is confused and alienated from the process of government. It is small wonder, too, that he thinks that lobbyists and the special interests have undue influence over the making of local and state government decisions. They have such considerable influence largely because they are staffed to do the homework and know the ropes which the average citizen cannot be expected to do.

The Constitution of the United States guarantees to state and local governments in this country a republican form of government; that is, a representative form of government. It is my contention that the present dilution of representative government at the state and local level has made state and local government very nearly unconstitutional in the sense meant by the Constitutional guarantee of a representative form at the state and local level. It is simply not a representative system when you don't know who to hang, when you don't know what issues you are voting on, and when the system is designed so that it is impossible for all but the greatest experts to find out what is going on. By including so many people in, we've included *the people* out.

I have belabored this analysis in the presence of scientists and engineers concerned about the contemporary problems that technology faces in our society, because I think it is essential that all understand that technology has brought forth a political problem of immense proportions, a problem fraught with very great opportunity and very great danger. I sincerely believe that the highest priority steps for placing technology at the service of society lie in the direction of improving governmental processes, including such heretofore dull but now desperately urgent questions as the reform of state and local government and the fabric of intergovernmental relations in the United States. When the President says that it is his purpose to return government to the people, we can all applaud. But the kinds of responsibilities we are now talking about are simply beyond the capacity of state and local government to meet in a way that is as fully representative as the present federal government, unless we make significant changes.

What is needed is not more study about how to put technology at the service of society, but more work at improving the institutions of society itself through which technology flows, by which technology is controlled, and thus by which technology serves society.

This is a great opportunity for engineers to insist that the educational institutions and those who allocate resources to them turn a major portion of their resources to the training of persons in the art of government, towards research and the development of methods of transmitting the usefulness of that research on the processes of government itself, on the ways by which government programs impinge upon the people, on the methods, techniques, and mechanism of representation. This is not a call for fancy survey research and computer technology—although some of that will help—but a call for hardheaded analysis of the problems of the polity itself. Most of all, it is not a call for public relations on behalf of or in defense of technology and science, as intriguing as that possibility may be in the face of a very bad press.

WHAT TO DO

Support of the Education for the Public Service Act, thoughtful and intelligent administration of the Intergovernmental Personnel Act, support of proposed federal legislation to require the states to have a state land policy and to know what they are doing about it, federal assumption of a national responsibility for welfare and for minimum educational standards, insistence that revenue sharing and all other federal grant and aid programs require a cleaning up of the labyrinth of state and local governmental mechanisms for decision making, and making them responsive and representative to people's interests—all of these are great contributions which the science and engineering fraternity can make to the ways in which technology can be at society's service.

Within universities there are some crucial needs which the present downturn of financial support almost guarantees will not be met unless emergency measures are taken. Most particularly there is a need for the development of the analytical capability on the kinds of issues and questions we have been talking about here; that is, the capacity to evaluate government programs, the capacity to set goals, analyze public purposes and translate them into programs. Perhaps most of all in universities is the need to be able to evaluate the success or failures of public programs themselves and to articulate this into the public sector so that the citizenry may understand. The development of social indicators so that we can measure the success of programs designed to cure man's personal lot are exemplary of the kind of thing which is needed; but universities are not able and often not willing to devote their resources to these subjects, and the present financial crisis on the campus will make it more difficult. Closely related to this is the need that the social scientist and the humanist who are going to be involved in these matters must learn something about technology and science itself. The scientific and engineering profession have done at least as badly in teaching us nonscience and engineering types about the substance of those issues as we have in teaching them politics and economics. By the way, the concept of trade-off came out of economics and not out of systems analysis.

Our students have been telling us all this—in their demand for relevance, in their demand that government listen to them on the war, in their demand for participation in the university system, and above all in the angry rhetoric of frustration and the talk of revolution.

The real revolution before man is the challenge that technology has brought to democratic government. We now are all convinced that technology is capable of great good and great evil, and that among those goods are the banishment of man's ancient enemies—disease, war, and poverty; and the evils include the extinction of man himself. The test and challenge is not to technology. The challenge is to the political and social systems which man has invented to control his destiny and to control technology. The American people have known, in the past, periods of great invention of social and political systems. They have also known periods of great adaptation of existing political and social systems to new challenges. Such a period is again upon us in a form we cannot quite yet know with an outcome we cannot foretell. What we do know is that it is a great test like the others—like the test of Philadelphia in 1787, the test of the Civil War, of the Great Depression, of totalitarian aggression, and the contemporary tests to the Constitution. Making a complex, democratic, federal system responsive to the people is both more difficult and more easy in the presence of modern technology. Tools a Jefferson and a Lincoln could have used to strengthen and ennoble the political system lie all about us, particularly a great educational system and a magnificent system of public communication. Public understanding of science and technology and public acceptance of the new gadgets, devices, and programs of science and engineering is not a public relations problem or an engineering problem or a systems analysis problem. It is the political problem of putting technology and government at the service of man, still, I believe, man's highest and noblest purpose.

I had meant to conclude by adding a couple of words about how Newman Hall referred to the public very often as "they" instead of "we." After reading my speech, I realized that I did the same thing. I can only say that I think we must remember some words that were said by a very great Illinoisan who lived not terribly far from here who said, on a quite different occasion, and I'll slightly abridge the remark, "The people are smart, smarter than the engineers think." He didn't say the "engineers" by the way. It was a slightly different context. It was a reference to a political party as a matter of fact.

Also Dr. Hall mentioned Aristotle on mechanics and I'd like to close with a quote from Aristotle on politics in which he said, "The highest responsibility is the education of the citizenry in the spirit of the policy."

Thank you very much.

DISUNITY IN THE FREE WORLD

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, the military balance between the Communist world and the free world has been shift-

ing to our disadvantage at an alarming rate for the past few years. From the end of World War II until the middle 1960's, we maintained the type of military superiority capable of keeping the world out of a major war. We continued to uphold the basic principle of our country that strength was the way to preserve peace.

Now it is apparent, Mr. Speaker, that we are willing to settle for military parity, and, the possibility is all too great that we might find ourselves in an inferior position. The Chairman of the Joint Chiefs of Staff stated to the House Committee on Armed Services a few days ago:

The relative military power of the United States in the world has already peaked and is now declining.

It is difficult for free countries dedicated to peaceful goals and to the service of their citizens to keep pace with the Communist totalitarian countries in military strength without facing opposition and difficulties from the citizens who are sick of war and want only peace and prosperity.

Not only is there a handicap for free countries to compete with totalitarian Communist regimes in military preparedness, but this handicap also exists in many other respects. They have launched a cold war against us and infiltrated many of the free world's institutions and we have not been able to react adequately.

Mr. Speaker, one of the causes of the weakness of the free world has been its disunity. In the past decades, the Western nations have allied under the pressure of the Communist threat, but there has also existed much national individualism and even egoism which have been effectively exploited by the Communists. One glaring example is the treaty between the Soviet Union and West Germany. The West German Socialist Liberal Government obviously believed that they could gain a better position in Moscow by launching out on their own to make a treaty that would give them some advantages that the rest of the free world would not enjoy. Perhaps this was partly motivated by the fear that the United States was no longer willing to honor its commitments or by some type of idealism that the Soviet Union now has the same goals as the free world.

Any hope of gain by the West Germans in this treaty seems to be pure illusion. If the West Germans take a close look at the treaties they have concluded with Moscow and Warsaw, they will find that they have made important moral and political concessions that are vital to the interest of the Western world. If the West Germans insist on "going it alone" with the Russians and the Poles, they will undoubtedly find themselves vulnerable to future Soviet extortions unless they are willing to give considerable economic, technological, and scientific aid to the Communist regimes, including the regime in East Germany, and to recognize the permanent existence of the various Communist states as well as the Communist regime in East Berlin and the Soviet Zone of Germany. The final result of the illusions involved in these treaties could well result in the reunification of Germany as Communist Germany.

It is my opinion that the socialist governments often do not realize that treaties with Communist regimes can be dangerous. They frequently yield to Communist demands because they cannot properly discern where socialism ends and communism begins. The difference between the expropriation of industries and property by the Socialist and Communist countries is not easily evident to those who are filled with the ideals of socialism. The partial loss of certain property rights in the state control involved in socialism and the total loss of all freedom under communism is often blurred by the propaganda coming from Communist sources.

In addition to the problem of the clear discernment of the aims and goals of the Communists on the part of some Socialists is the fact that many of the Socialist Parties are heavily infiltrated by dedicated and disciplined Communists. Some Socialists are helping the Communists unwittingly while others are using socialism as a road to full communism but in both cases they are sabotaging our efforts to preserve peace and freedom in the world.

If a free world nation finds that it needs treaties with the Communists it certainly should allow the non-Socialist members of their nation to negotiate them with a clear vision in order that their rights and freedoms are not wittingly or unwittingly negotiated away.

SALUTE TO THE BOY SCOUTS

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the month of February marks the 62d birthday of the Boy Scouts of America. Although our country has experienced tremendous social and technical advancements since 1910, the Boy Scouts has retained its relevance. Scouting offers the means by which a boy can experience his first hiking or camping trip into the country, learn to swim, become aware of his environment, receive leadership training, develop the ability to work with others toward a common goal, and become associated with men working in a specific field of interest, such as chemistry or printing, in preparation for a future career. But more importantly, the Boy Scouts of America provides the essential service of helping a boy evolve into a self-reliant man who possesses a love of God, family, and country.

I am confident that I speak for my fellow colleagues in Congress and, in fact, our country when I say that we are grateful to the Boy Scouts of America and the thousands of volunteers who make its program possible for the services which they have performed in the past and will continue to perform in the future. At this time I would like to include in the CONGRESSIONAL RECORD the following editorial, which appeared in the Hartford Courant, entitled "Scout Birthday Gift: An Updated Image":

SCOUT BIRTHDAY GIFT: AN UPDATED IMAGE

The Boy Scouts of America are observing their 62nd birthday this month by looking for a new image.

Scout leaders are worried that their programs no longer attract enough of the 4.5 million American boys they estimate could benefit from Scouting activities, so they have commissioned a study and are developing new programs in a search for that overworked idea of "relevance."

Changes to date include drug education programs, more grass-roots democracy in the troop and new programs in the environmental movement, an obvious "natural" for the Scouts.

The Boy Scout organization, like any group of its age, must remain flexible in order to respond to the changing times through which it lives. Many things have changed since the national Scouting organization was formed Feb. 8, 1910, and through the years many Scout programs have been added, dropped or modified to reflect those changes. The present movement is just another step in that process.

Just because some things may need changing, though, it is neither fair nor correct to think of the Boy Scouts as out-of-date. It may be true, in fact, that in one sense of relevance the world may just now be catching up to the Scouts.

Scouting has always brought boys close to nature. That is one of the original and lasting programs, and it has even more meaning and opportunity in the widespread awakening of concern over the environment.

Relevance goes a lot deeper than that, though. Even a tenderfoot learns that getting along in the cold, dark woods is something he can learn to cope with and to enjoy. Some boys follow that program to its ultimate degree in which they can—and do—live in the woods for days, armed with little more than a knife, a few pieces of string and, most important, their own wits and knowledge.

No one can come through that kind of experience, or even the preliminary steps, without overcoming fears, meeting challenges and finding out that yes, by golly, he can do it. It's a feeling that helps turn a boy into a man—often an exceptional man—and the scouts over the years have done a tremendous job of that.

Life styles will continue to come and go, and the Scouts will probably continue to adapt to them. But the program's basic values are lasting ones that have endured for 62 years. We predict that they'll last for the next 62 years as well.

DRAFT INEQUITIES

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, an individual may prepare for a career in the U.S. merchant marine at the Academy at Kings Point, N.Y., or he may attend one of the State merchant marine academies and colleges located in several States throughout the Nation. There are many similarities in these programs. The cadets receive the same military training from active duty naval personnel, basically the same education, and have the same obligation upon graduation to accept a Navy commission or a third mate's license. But there is one basic difference: Cadets attending the U.S. Merchant Marine Academy are exempt from the draft, while cadets attending any one of the State maritime colleges are eligible for the draft.

In my remarks to the House on December 9, 1971, I noted that James E. Johnson, Assistant Secretary of the Navy for Manpower and Reserves, had stated that cadets in maritime colleges, "appear, from the viewpoint of the Navy, to be entitled to deferments in much the same manner as midshipmen at the U.S. Merchant Marine Academy." Secretary Johnson also noted the historical significance of the Navy's dependence on the merchant marine to exploit seapower in support of the national interest, especially in time of war. The Secretary said:

> The need for a viable merchant marine, manned by professionally trained officers has been amply demonstated, but perhaps we in the Navy realize better than anyone the vast amounts of cooperation and coordination which is essential to effective joint operations.

Despite the interests of the Department of the Navy and the U.S. merchant marine, the Selective Service feels that it cannot alter procedure without additional legislation. I introduced such legislation last Thursday, H.R. 13165, a bill to amend the draft laws to provide for the deferment of students appointed to maritime academies and colleges, and H.R. 13166, a bill to amend the Maritime Academy Act of 1958 to provide that students at State maritime academies and colleges may be appointed by the Secretary of the Navy as Reserve midshipmen in the U.S. Navy.

It is important that we act swiftly to correct this inconsistency and inequity. I urge my colleagues to join me in support of these bills.

THE PLIGHT OF THE OLDER AMERICAN

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, in a world which judges success on productivity, both individual and collective, our great Nation stands out as the leader with a gross national product of over $1 trillion. Yet, Mr. Speaker, nearly 5 million Americans over 65 years of age—our fellow citizens—who have worked most of their lives contributing toward this abundance we now enjoy, subsist miserably below what is considered the poverty level.

The plight of our 20 million older Americans must surely be a deeply personal subject for each and every one of us, as we are all aging and have witnessed at close hand the process as our parents have grown old before us. On that very personal level, imagine—if you will—your life being threatened due to inability to pay for adequate medical treatment or lack of access to medical facilities. Imagine your liberty being threatened due to lack of access to transportation services or employment due to age discrimination. Imagine your pursuit of happiness threatened because the Nation which you have served and contributed to all of your life cannot find the resources to provide what even it considers the minimal income level for subsistence.

Perhaps it is difficult, after all, to imagine these examples on too personal a level, but it is reality, not fantasy, for nearly 5 million of our countrymen and strikes very close to all 20 million of our senior citizens over 65 years of age.

Senator CHURCH, chairman of the Senate Special Committee on Aging, recently told the White House Conference on Aging that—

> Our Nation seems to be falling behind rather than advancing in terms of achieving genuine security and well being for older Americans.

He is right. And we are all right in recognizing this intolerable and inexcusable state of affairs. But we are all wrong for not acting on the remedies.

I have mentioned the world leadership and success of our country in the area of productivity and resources. But surely we wish also to be leaders in the field of human compassion and loyalty to our own citizens. Surely we can agree that providing genuine security and well-being for our senior citizens is a small price to pay for the lifetime they have given and are still giving to America. In concrete terms, what then are genuine security and well-being for an older American?

Perhaps it is having shelter which is clean, secure, constructed well, and with individual geriatric handicaps in mind; with rent and property tax payments which leaves something for other expenses. And yet, in the past decade only 350,000 units have been built for the elderly, which equals their net gain within the population each year. As a result, nearly 6 million elderly live in substandard housing.

Perhaps it is having easy access to transportation and at a reasonable cost in order to visit the doctor, dentist, go shopping, or just to see friends. Yet, to this day in America there is no transportation system in operation that is geared to the specific needs of the elderly. For many the system is a barrier rather than an aid.

Perhaps genuine security and well-being is the knowledge that when doctor or hospital visits are necessary, treatment will not be denied or made a degrading experience because of lack of financial means. How many older Americans have this well-being and genuine security when medicare covers less than 50 percent of the average yearly cost of health care for an individual and when that cost on the average is $800?

Perhaps it is going to a supermarket and being able to purchase food for balanced and nutritious meals at a reasonable price. And yet so many elderly have neither the means nor the knowhow, nor the physical ability to help themselves. Eight million older Americans have diets insufficient for good health.

Perhaps it is having a job. Yet only 17 percent of those over 65 are employed. And for those not employed it is crucial to solving the overall problems of the elderly to develop a real income strategy to provide security in retirement. However, as well we know, the present social security payments lag behind the cost-of-living increases, forcing more and more older people onto the welfare rolls. As an example, 50 percent of aged widows live in poverty. In this country median income is $10,000—but 25 percent of all aged couples live with less than $3,000 annually. Persons 45 and older are less than 4 percent of enrollees in work and training programs, but they are 21 percent of total U.S. unemployed. During the last 30 years, men in that age bracket declined in the labor force from 42 to 27 percent.

Genuine security and well-being are certainly all of the things that I have just mentioned, but they are also so many more things, tangible and intangible. The total environment in which the older American lives contributes to these goals. A way must be found to turn the despair of so many into hope and eventually into a modicum of happiness, which should be their due.

In reviewing these examples, the point has been made, I hope, that those factors which contribute toward genuine security and well-being are not aspirations to be applied only to the elderly, but to us all. However, the elderly must have the primary focus of our attention, for it is they who are least able to help themselves. The handicaps of old age, both physical and mental, put such persons at a terrible disadvantage and it is incumbent upon us, the Nation's legislators, to right the wrongs of inaction, which have allowed the state of the older American to worsen rather than to improve.

Considering this, Mr. Speaker, for my part I intend to support all constructive efforts to improve the life of elderly Americans. I endorse and strongly support the recently announced proposal to increase social security benefits, and I am committed to an improved medicare program and better housing programs for the elderly. And I intend to continue my efforts to strengthen and expand the Federal interest in the elderly as expressed in the Older Americans Act and through the Administration on Aging.

I am proud to have been associated with the legislative effort in the Committee on Education and Labor over the years to define and implement a meaningful Federal policy and program for older Americans. After many years, our efforts culminated in 1965 in the enactment of the Older Americans Act and the establishment of the Administration on Aging. In subsequent years, we have refined and expanded the original act. It is time to act once again, for at the end of the current fiscal year, programs authorized by the Older Americans Act will expire. I am today introducing a comprehensive measure to extend and expand programs authorized by this act and to add to the act a series of new programs and provisions which I believe to be necessary.

I have mentioned that the state of the older Americans has worsened rather than improved. This is certainly an apt description for the Administration on Aging. The Administration on Aging was intended by Congress to be a high level office of responsibility within the Federal structure. Unfortunately, this congressional intent has not been realized. Only 45 percent of what is authorized for programs administered by the agency will be available during the current fiscal year. The Administration on Aging which was to be the focal point in government

for older persons, has had the foster grandparent program taken from its responsibility. As if this were not enough, it has also been deprived of another successful program—the retired senior volunteer program. The research function of the Administration on Aging has been transferred away and into the Social and Rehabilitation Service. We can therefore readily understand why there are some who say we are further away from a national commitment to the elderly than ever before. The bill which I am introducing today contains specific provisions designed to guarantee that the Administration on Aging becomes what the Congress has clearly intended—that is, an office of power and responsibility within the federal system.

Under the bill, the Secretary of Health, Education, and Welfare and the Commissioner on Aging will serve as ex officio members of a new presidentially appointed National Advisory Council on Aging. It is intended that the Council serve as an adviser and evaluator in the Federal effort to bring needed and meaningful services and programs to the elderly.

Mr. Speaker, in addition, the bill will provide for a 5-year extension of existing programs with increased authorizations for all titles of the act. Title V of the act, the training program, is completely rewritten in an effort to expand and strengthen Federal assistance in the areas of recruitment and training of personnel employed in or preparing for employment in the field of aging. In the area of research, I propose that there be established an independent Commission on Aging which shall be responsible for a 5-year plan designed to promote intensive coordinated research on the biological origins of aging.

One of the problems I have noted is that elderly Americans frequently do not have sufficient information on the programs and services available to them. An information gap exists and sometimes becomes a barrier to participation. I therefore propose the establishment at the Federal level of an Information and Resource Center for the Aging which will collect, organize, publish, and disseminate information on programs for the aging. I propose also that centers be established in each of the States so that information will be readily available, if necessary on a case by case basis, for elderly citizens.

The bill also proposes the establishment of special emphasis programs focusing on housing, transportation, and employment problems of the elderly. Funds would be authorized for programs and services which are of sufficient size and scope to have an appreciable impact in meeting these needs of older persons. Federal funds would be available to finance 90 percent of the costs.

Mr. Speaker, there are existing programs which can be utilized in furthering and fostering our efforts for the elderly. What must be done is to have these programs better focused on the elderly. I speak of library programs, community service, and continuing education programs, adult education, and programs in the arts. Accordingly, the bill which I am introducing amends the Library Services and Construction Act; the National Commissions on Libraries and Information Sciences Act; title I of the Higher Education Act; the Adult Education Act; and the National Foundation on the Arts and Humanities Act—in an effort to have programs carried on under these acts better relate to the documented and great needs of elderly Americans.

The Committee on Education and Labor—more specifically our Select Subcommittee on Education under Chairman JOHN BRADEMAS—will soon begin hearings on legislation to extend and amend the Older Americans Act. I am hopeful that the proposals, many of which I have discussed, contained in the bill I am introducing today will be helpful as the committee and the House works its will this year.

I wish to make it clear that I am not forever bound to any one of the proposals contained in the bill. I welcome suggestions for modification or change. It is my belief that we have an opportunity this year to take a giant step forward on behalf of the elderly and I ask my colleagues to join with me in this legislative effort which will, I am confident, result in tangible and significant benefits for the elderly.

CHANGES IN ALLOWANCES FOR MEMBERS

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 457, adopted by the House of Representatives on July 21, 1971, provided the Committee on House Administration the authority to fix and adjust from time to time various allowances by order of the committee. Pursuant to this authority, the committee has revised Order No. 1 and issued Order No. 3.

Order No. 1, revised, increases the number of allowable district offices in Federal office buildings from two to three. Some Members, because of the physical size of their districts require additional offices to adequately serve their constituents. This order gives those Members the authority to establish an additional office in a Federal building if such space is available.

Order No. 1, revised, follows:

Resolved, That effective January 25, 1972, each Member of the House of Representatives shall be entitled to office space suitable for his use in the district he represents at such places designated by him in such district. The Sergeant at Arms shall secure office space satisfactory to the Member in post offices or Federal buildings at not more than three (3) locations if such space is available. Office space to which a Member is entitled under this resolution which is not secured by the Sergeant at Arms may be secured by the Member, and the Clerk shall approve for payment from the contingent fund of the House of Representatives vouchers covering bona fide statements of amounts due for office space not exceeding a total allowance to each Member of $200 per month; but if a Member certifies to the Committee on House Administration that he is unable to obtain suitable space in his district for $200 per month due to high rental rates or other factors, the Committee on House Administration, may as the committee considers appropriate, direct the Clerk to approve for payment from the contingent fund of the House of Representatives vouchers covering bona fide statements of amounts due for suitable office space not exceeding a total allowance to each Member of $350 per month. Members shall be entitled to have no more than three (3) district offices outfitted with office equipment, carpeting, and draperies at the expense of the General Service Administration.

As used in this resolution the term "Member" means any Member of the House of Representatives, the Resident Commissioner of Puerto Rico, and the Delegate of the District of Columbia.

Order No. 3 equalizes the number of clerks and the amount of clerk hire allowance to all Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia. The former method of allocating this allowance—based on the population of a Member's district—has become obsolete under the new redistricting plans being adopted throughout the United States. Under these plans, congressional districts will be of a more uniform size.

Order No. 3 follows:

Resolved, That effective March 1, 1972, until otherwise provided by order of the Committee on House Administration, each Member of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia shall be entitled to an annual clerk hire allowance of $157,092 for not to exceed 16 clerks. There shall be paid out of the contigent fund of the House of Representatives such sums as may be necessary to carry out this order until otherwise provided by law.

A "CURE" FOR HEROIN ADDICTION?

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the attached has come to my attention through the cooperation and courtesy of my able, distinguished colleague, CHARLES E. BENNETT. I believe it will be of interest to all who share my deep concern about the dread problem of heroin addiction, and I include this editorial in the RECORD, immediately following my remarks:

[From the Florida Times-Union, Jacksonville, Fla., Nov. 24, 1971]

A "CURE" FOR HEROIN ADDICTION?

At first glance, the proposal of the House Select Committee on Crime, chaired by Miami Rep. Claude Pepper, calling for "an unprecedented $50 million emergency expenditure" to "enlist private drug firms and government research scientists in a joint effort to find a cure for heroin addiction" might seem a rather way-out approach—just another case of trying to solve problems by throwing dollars at them.

After all, opiate addiction has been with society for centuries, no "cure" has been found or even promised. The very nature of the addiction would seem to preclude the ordinary medical approach towards "curing."

Nevertheless, it must also be considered that never before in all of history has there been available, to apply to such an effort, the vast resources of technical expertise as are offered by the U.S. pharmaceutical industry today. The question is: Would a real "cure" still be impossible if this scientific colossus were really harnessed to the task?

To date, the most success at containing (not curing) the problem has been through

methadone maintenance, in which a harmless narcotic habit is substituted for a very harmful one. It does not work with all addicts, but where it works it substitutes a habit costing a few cents a day for one costing perhaps $150 a day—and compelling a life of crime to support it.

However, although research effort to date has definitely been minor in scope, the pharmaceutical industry (plus very limited government research) has now reported findings which indicate that an effort to find a "cure" might not be as impractical as would be supposed.

This week an industry task force reported improvements on two narcotic "antagonists" (or antiopiates) which block addicts' cravings for heroin; plus a tranquilizer, said effective in aiding withdrawal; and a compound to make further heroin repulsive for weeks (much as a drug similar in principle works for alcoholics).

The "antagonists" and methadone are alike in that both block the effect of heroin in the body, without any mind-altering effects of their own. The difference is that methadone itself is addictive; the antagonists are not and can, after a readjustment period, be discontinued.

All in all, the status of a heroin "cure" to date lies not in the "accomplishment" but the "promise" category. The success stories reported usually are qualified; a Maryland program showed an "antagonist" worked—but the success was predicated upon the patients being parolees, over whom mandatory control could be exercised (which might suggest a thought for the future).

Nevertheless, the Pepper committee recommendation merits a full, considered examination by Congress. If $50 million would significantly lower the staggering—many billions each year—cost of crime caused by addiction, it would be a fortunate investment.

For it must be remembered that the real victims of drug addiction in America are not the drug addicts—but the innocent citizens who are the victims of the muggings and robbings and beatings and shootings which provide the "loot" to support the "habit."

THE SAFE SCHOOLS ACT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, since I first introduced the Safe Schools Act—H.R. 3101—in February of 1971, considerable support has developed for it around the country. I know that many Members of the House and Senate have begun to receive letters from constituents and educators in their home districts and States urging them to support this proposal, which would provide Federal funds to school districts to assist them in improving the security of children, employees, and facilities.

Mr. Speaker, the General Education Subcommittee of the House Education and Labor Committee, chaired by our very capable colleague from Illinois (Mr. PUCINSKI), held hearings on the Safe Schools Act in New York City on September 17, 1971. Shortly before that hearing the Safe Schools Act was slightly revised and was reintroduced with the cosponsorship of the chairman and a number of members of the Education and Labor Committee.

In view of the fact that those hearings have not yet been printed, and in view of the growing interest in this legislation, I wish to insert in the RECORD at this point the text of my testimony before the General Education Subcommittee, a text of the revised version of the Safe Schools Act—H.R. 10641—and a list of the current cosponsors:

LEGISLATION TO HELP LOCAL COMMUNITIES CURB CRIME IN THE SCHOOLS; THE SAFE SCHOOLS ACT OF 1971

(Remarks by JONATHAN B. BINGHAM, U.S. House of Representatives, September 17, 1971)

Mr. Chairman, I wish to thank you and the Members of your Subcommittee for coming to New York City once again, and for convening this hearing on the problem of crime in our schools and possible remedial action that might be taken at the Federal level. The House Committee on Education and Labor has always taken an active interest in the educational problems of the City, and I am grateful to you, Mr. Chairman, for this additional indication of your attention to the problems and needs of our community.

As you and the Members of this Subcommittee are clearly aware, Mr. Chairman, the problem of criminal behavior in the elementary and secondary schools of this city and many other cities throughout the nation has grown to such proportions that it threatens the very viability of our educational system. A recent publication of the National School Public Relations Association estimates that national losses from school vandalism, theft and arson run to $200 million a year. But such a figure does not begin to reflect the real damage that crime in the schools does to the educational process. An atmosphere of crime and fear in a given school can virtually paralyze the learning process.

This pattern of increasing crime in the schools is a nationwide phenomenon, though it is most striking in urban schools. I know that this was indicated by a survey this Subcommittee conducted on violence and disruption in the schools. In addition, a 1970 survey of 110 Urban School Districts by the Senate Subcommittee on Juvenile Delinquency showed an alarming increase in school crimes, and I ask that a table I have prepared on the basis of that Survey appear at this point in the Record.

INCREASE IN SOME CATEGORIES OF CRIME IN ELEMENTARY AND SECONDARY SCHOOLS FROM 1964 TO 1968

Category	1964	1968	Percent increase
Homicides	15	26	73
Forcible rapes	51	81	61
Robberies	396	1,508	306
Aggravated assaults	475	680	43
Burglaries, larcenies	7,604	14,102	86
Weapons offenses	419	1,089	136
Narcotics	73	854	1,069
Drunkenness	370	1,035	179
Crimes by nonstudents	142	3,894	2,600
Vandalism incidents	186,184	250,549	35
Assaults on teachers	25	1,801	7,100
Assaults on students	1,601	4,267	167
Other	4,796	8,824	84

Source: 1970 survey of 110 school districts, Senate Subcommittee on Juvenile Delinquency.

This chart shows that crime in most categories has at least doubled in recent years, and increases of more than a thousand percent have occurred in some categories—including narcotics offenses, crimes by nonstudents, and assaults on teachers.

What these figures do not show is that the heaviest burden of crime in the schools falls upon minority groups. Time and again, in my District, black and Puerto Rican students and parents have pleaded with me to take action to stop crime in the schools, so the educational process can take place. They have pointed out to me that outsiders, who don't belong in the schools, are responsible for most of the crime that occurs there.

The causes of the rising school crime trend are complex. In large part, they assuredly stem from serious ills and injustices that pervade our entire urban society, of which schools are just a part. Very likely, too, they stem from weaknesses in the structure of our educational institutions. Fundamental changes in society as a whole, and in our educational system, therefore, may alter the trend, and I support and am working for many such fundamental reforms, as are, I know, many of the Members of this subcommittee. In the meantime, however, it seems to me we can and must take interim measures to see that the current generation of students—students who may not benefit from the fundamental education and social reforms we hope for—are able to study free from harm and fear. I believe that we can, Mr. Chairman, provide greater personal security to our school children, and to school personnel, without interfering with the many fundamental reforms we need and hope to make, and without making repressive garrisons of the schools.

With that in mind, I introduced, in February of this year, H.R. 3101, the Safe Schools Act of 1971. Since that time I have revised the legislation and reintroduced it as H.R. 10641. I am gratified that you, Mr. Chairman, and Members of this Subcommittee, as well as the Chairman and Members of the full Committee, have seen fit to co-sponsor this proposal. H.R. 10641 is, I believe, the major specific legislative proposal under consideration in the House of Representatives in the matter of crime in the schools.

The Safe Schools Act would establish a new category of grants for school districts eligible for Title I funds under Title I of the Elementary and Secondary Education Act. These special crime funds would be available "to assist school districts to develop and carry out locally approved school security plans to reduce crime against (their school) children, employees, and facilities . . ."

As this Committee is undoubtedly aware, the Office of Education has consistently taken the position that funds under existing education assistance programs, however broad, are not to be used for security purposes.

In recent months, the Law Enforcement Assistance Administration, through its block grants to the states and through its discretionary grants, has begun to fill this gap in Federal grants by making funds available to combat school crime. For the most part, however, these funds are channelled through local police officials and other law enforcement agencies. In view of the obvious need for close cooperation between school and police officials for some purposes (there may well be a justification for law enforcement agencies to receive Federal funds for school crime control. The idea, however, of extensive involvement of law enforcement agencies in the schools is, I think, generally repugnant to Americans. It becomes, therefore, the responsibility of profesional educators, the community, and civilian agencies to expand their activities to control school crime. That, Mr. Chairman, is the purpose of the Safe Schools Act, and that, I believe, would be its effect.

Under this bill priority would be given to schools demonstrating the greatest need for this type of funding, those able to demonstrate full community support, and those making the greatest efforts to assure full protection of the civil rights of students and employees.

Two important restrictions should be noted. The Safe Schools Act clearly prohibits the use of any funds for "the introduction, presence, or use of firearms, other weapons, or chemical agents in any school."

Secondly, the Safe Schools Act will support programs for the control of criminal behavior, which is quite strictly defined as "any unlawful act or activity, *not* including any

violation of any rule, regulation, or code of behavior established by any organization, agency, or institution not enacted into law."

The bill lists a number of activities that might be supported. There are five types of programs which I feel could most usefully be carried on under the Safe Schools Act:

(1) *Greater professionalization and expansion of school security forces.* It is time we recognize that the job of making schools safe is a delicate and demanding one. It requires special skills, techniques, and equipment which neither teachers nor school administrators, nor the average "cop on the beat," possess. Some school systems have hesitated to provide needed security equipment because their security forces are not adequately trained to use it properly. So one inadequacy leads to another. And our children and teachers are the losers.

(2) *Increased "adult presence" in the schools through the use of trained "parent patrols."* On the basis of an independent study for the National Association of Secondary School Principles, the Syracuse University Research Corporation strongly recommended increased use of paid, neighborhood-based security aides in the schools. Use of parent security aides has been tried successfully in schools in Cleveland, Berkeley, and elsewhere. Their effectiveness was found to be enhanced by their neutrality—that is, their lack of indentification with either school officials or the police. Here again, of course, special training is necessary, especially in the area of fundamental constitutional rights. Without such training, "parent patrols" could do more harm than good. But with proper training, it appears that they can make an important contribution. Funds under the legislation I am proposing could be used to set up such "parent patrol" programs, to train participants, and to pay their salaries.

(3) *Installation of basic surveillance and alarm systems as crime deterrents.* One special area where this type of equipment might be particularly helpful is with regard to school crimes involving firearms. As you will note on the chart, there has been a particularly alarming increase in crimes with firearms in the schools—they have increased 136% over the past four years. We have moved swiftly and decisively through the use of sophisticated surveillance devices to prevent airline passengers, for example, from harboring firearms which might be used in hi-jackings. Should we not move equally quickly to make use of these methods to stop firearms and other lethal weapons at the schoolhouse doors? I think we should.

Sophisticated alarm systems are also of value as deterrents. Schools that don't have them constitute extremely inviting crime targets, and resources should be made available to outfit all schools with at least basic equipment of this type.

(4) *Improved student identification and accounting methods.* One of the most astounding and disturbing facts about the increase in school crimes is the extent to which such crime is committed by outsiders—people who don't belong in the schools in the first place. Such crime by outsiders increased 2600% between 1964 and 1968 in the 110 school districts sampled by the Senate Juvenile Delinquency Subcommittee.

We can no longer permit school children and personnel to be easy prey for intruders who find schools convenient settings for crime. We must at least in every school be able to spot individuals who clearly don't belong—and spot them quickly. Several of the other measures I've mentioned under this legislation would help. In addition, more elaborate methods of student identification, attendance, scheduling, and accounting might be effective.

(5) *Improved school-community liaison.* Every school crime control program should include systematic efforts to inform citizens near each school of the problem, and should attempt to enlist their support. A number of communities have experimented with public participation programs under which citizens are alerted to report strangers in or near schools, to report any information they may obtain about illicit activities involving school children, and so forth. In some communities, parent canvassers have been sent out regularly to request, gather, and study such information in conjunction with school security officials. In the Bronx, students have organized both to curb crime within the school and to alert the community to the problem and enlist its help in stopping it. Such efforts should be encouraged, and this legislation would enable the schools to support, implement, and expand them.

In my judgment, the Safe Schools Act of 1971 is a constructive step toward better meeting our responsibilities to those who are suffering from crime in the schools. It would assure that this increased effort is undertaken without hysteria, with full attention to essential Constitutional safeguards, with the initiative in the hands of the people most affected, not as a substitute, but as a supplement for broader programs directed at the causes of crime.

H. R. 10641

A bill to amend the Elementary and Secondary Education Act of 1965 to assist school districts to carry out locally approved school security plans to reduce crime against children, employees, and facilities of their schools

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Schools Act of 1971".

SEC. 2. Title I of the Elementary and Secondary Education Act of 1965 is amended by inserting after part C thereof the following new part:

"PART D—SPECIAL GRANTS FOR SAFE SCHOOLS

"PURPOSE

"SEC. 141. The purpose of this part is to provide financial assistance to aid local educational agencies throughout the Nation to meet special needs incident to providing security for children, employees, and facilities in elementary and secondary schools by reducing and preventing crimes against them.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 142. There is authorized to be appropriated to carry out this part, the sum of $——— for the fiscal year 1972, and $——— for the fiscal year 1973.

"ALLOTMENTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 143. (a) From the sums appropriated to carry out this part for a fiscal year, the Commissioner shall reserve not to exceed 3 per centum thereof and allot such amount among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for grants under this part. In addition he shall allot to the Secretary of the Interior from such amount, such sums as he may determine for elementary and secondary schools operated for Indian children by the Department of the Interior.

"(b) The remainder of the sums appropriated to carry out this part for a fiscal year shall be allotted by the Commissioner among other local educational agencies in a manner which gives consideration to the following criteria:

"(1) the need for assistance, taking into account such factors as—

"(A) the extent and impact upon elementary and secondary education of crime in the schools of the district to be served;

"(B) the financial need of such local educational agency;

"(C) the expense and difficulty of effectively carrying out a plan described in section 144(a) in such school district; and

"(D) the degree to which measurable deficiencies in the quality of public education afforded in such district exceed those of other school districts within the State;

"(2) the degree to which the plan described in section 144(a), and the program or project to be assisted, are likely to effect a decrease in crime in the schools;

"(3) the degree to which the plan described in section 144(a) enjoys the support and approval of parents, professional school employees, and the community at large in the school district affected; and

"(4) the degree to which the plan described in section 144(a) affords full protection of the civil and constitutional rights of students and employees of the school district affected.

"APPLICATION

"SEC. 144. (a) A local educational agency may receive a grant under this part for any fiscal year only upon application therefor approved by the Commission, with the consent of the appropriate State educational agency, upon his determination that the local educational agency has adopted and is implementing, or will, if assistance is made available to it under this part, adopt and implement, a plan to reduce crime and increase the safety and security of the students, employees, and facilities of its elementary and secondary schools through programs and projects designed to carry out the purpose of this part, including—

"(1) the provision of additional professional or other staff members (including staff members specially trained in problems incident to crime control) and the training and retraining of staff for schools which are affected by such plan;

"(2) the provision of services to meet the special needs of students and employees in such schools;

"(3) community activities, including public education and participation efforts, in support of such plan;

"(4) special administration activities, such as the rescheduling of students or employees;

"(5) provision of information to parents and other members of the general public incident to the development or to the implementation of such plan;

"(6) planning and evaluation activities;

"(7) acquisition, installation, modernization, or replacement of appropriate equipment and supplies;

"(8) minor alterations of school plants and facilities; and

"(9) other specially designed programs or projects that meet the purpose of this part.

"(b) No funds authorized for assistance under this part shall be used to support the introduction, presence, or use of firearms, other weapons, or chemical agents in any school."

SEC. 3. (a) Part D of title I of the Elementary and Secondary Education Act of 1965 is redesignated as part E, and sections 141 through 144 of such title are redesignated as sections 151 through 154, respectively, and sections 146 through 150 are redesignated as sections 155 through 159, respectively. Cross references to such part and such title are redesignated accordingly.

(b) The provisions of part E of title I of the Elementary and Secondary Education Act (as redesignated by subsection (a)) are amended as follows:

(1) The material preceding paragraph (1) in section 151(a) is amended by inserting "part A, B, or C of" before "this title".

(2) Section 151(a)(1) is amended by inserting "part A, B, or C of" before "this title" the first time it appears.

(3) Section 151(a)(2) is amended by inserting after "such agency" the following: ", in the case of assistance under part A, B, or C,".

(4) Section 151(a)(6) is amended by inserting after "the programs" the following: "assisted under part A, B, or C".

(5) Section 152(a)(1) is amended by inserting before "and which meet" the following: "or 144", by inserting after "103(a)(5)" the following: "and of part D", and by inserting before the semicolon at the end thereof the following: "or part DD".

(6) Section 153(a)(2) is amended by inserting "part A, B, and C of" before "this title", and by adding at the end thereof the following new sentence: "From the funds paid to it pursuant to paragraph (1), each State educational agency shall distribute to each local educational agency of the State which has submitted an application approved under section 144 the amount for which such application has been approved, except that this amount shall not exceed the agency's allotment under section 143."

(7) The first sentence of section 154 is amended by inserting "parts A, B, and C of" before "this title".

(8) The third, fifth, and sixth sentences of section 154 are amended by striking out "this title" and inserting "such parts".

SEC. 4. Section 303 of the Act of September 30, 1950 (20 U.S.C. 244), is amended by adding at the end thereof the following:

"(16) The term 'crime' means any unlawful act or activity, not including any violation of any rule, regulation, or code of behavior established by any organization, agency, or institution not enacted into law."

House cosponsors of the Safe Schools Act—H.R. 10641 and identical bills—Mr. BINGHAM, of New York, Mr. BADILLO, of New York, Mrs. HICKS of Massachusetts, Mr. PERKINS, of Kentucky, Mr. PUCINSKI, of Illinois, Mr. SCHEUER, of New York, Mrs. CHISHOLM, of New York, and Mr. BURTON, of California.

Finally, Mr. Speaker, the current—February 1972—issue of Today's Education, the journal of the National Education Association, contains a most thorough and informative review of the problem of crime and violence in the schools. It makes mention of the Safe Schools Act, and I think many Members and readers of the RECORD will find it a most useful article. This item, entitled "Assaults on Teachers," follows:

ASSAULTS ON TEACHERS

Last year in Madison, Wisconsin, a parent who had accused a teacher of slapping her five-year-old son beat the teacher unconscious in front of her kindergarten class.

A group of about 25 youths attacked 30 striking schoolteachers in Newark, New Jersey, in early 1971. The young people were armed with clubs, lengths of pipes, and a fire extinguisher. Six teachers required hospital treatment.

As he was trying to restore order between fighting black and white students in the cafeteria at Nottingham High School in Syracuse, New York, Vice Principal Joe D. Woods was cracked over the head with a chair. His wound required four stitches.

In testimony given a year ago before the California State School of Education, James J. Hamrock, supervisor of guidance for the San Francisco schools, reported: "We get numerous reports on assaults. It's astounding to see what happens even in the elementary grades—teachers being hit and called filthy names, assaulted by little kids who really can't hurt them much. But the thing is, what are you going to do about these kids so they change their way of thinking about things, their attitude and behavior?"

Violence in the schools is increasing and so are assaults on teachers by students, parents, and intruders in the schools. All the studies indicate that city schools have the lion's share of the shootings, beatings, and rapes that occur in elementary and secondary schools.

A study of 110 large urban school districts released early in 1970 by the Senate Subcommittee To Investigate Juvenile Delinquency shows pupil assaults on teachers rose from 253 in 1964 to 1,801 in 1968—an increase of 612 percent. (The same study showed the following increases in other school crimes: robberies, up 281 percent; narcotics offenses, up 1,070 percent; and drunkenness, up 180 percent.)

As part of an investigation of disruption in urban high schools, the Policy Institute of the Syracuse University Research Corporation sent a questionnaire in June 1970 to 2,000 secondary schools all over the country, the vast majority of which were located in the central city. Published by the National Association of Secondary School Principals (an NEA national associate), the Institute's report, *Disruption in Urban Public Secondary Schools*, indicates that 29 percent of the almost 700 systems that responded had had incidents of student-teacher physical confrontations in the past three years.

And an *Education U.S.A.* survey of 44 urban, suburban, and rural school districts in mid-1970 found that of those reporting increases in violence against students and staff members, the rates ranged from 5 to over 100 percent. However, many districts were unable to give comparisons because they have just started to keep accurate records of violent incidents.

Since many school systems have not and still do not keep detailed records of violent incidents in the schools, including assaults on teachers, and many educators do not report such occurrences, figures on the number of assaults may be too low. For example, a New York City "Statistical Report on School Incidents" states that the number of assaults on staff members for 1968 is 180; for 1969, 231; 1970, 287; and January to June 1971, 245. (The teacher strike that closed the schools for 20 percent of the school year affected the 1968 figure; and confusion about reporting procedures when decentralization went into effect affected the 1970 figure.) The Report estimates that the rate of unreported incidents may be as high as 60 percent or as low as 30 and cites school gossip about violent acts as support for those estimates.

Why aren't incidents reported? In a statement prepared for the Senate Subcommittee on Juvenile Delinquency, the late Senator Thomas Dodd said: ". . . it is in the interest of the system that whatever untoward violence occurs be hushed up. It reflects on the school system itself."

George Patterson, special assistant to the deputy chancellor of the New York City schools, with responsibility for school security, comments: "The teachers union would say that principals are trying to play such incidents down to protect their reputations and that of their schools. However, I think that's an oversimplification. Sometimes a principal might not report an incident because he considers it trivial—for example, a kindergartner kicks his teacher in the shins. Or a principal may not report an incident because the teacher, child, and parent have settled the issue privately and prefer to drop the matter."

Whatever the reasons for not reporting incidents, many authorities agree that accurate record keeping and prosecution of serious offenders are vital to combating the problem of violence in schools, including assaults on teachers. Senator Dodd in his testimony noted: "The fact that these events are treated so gingerly is not lost on the student body, which feels considerable encouragement from this failure to report violent incidents."

Edward D. Brady, director of personnel security for the Chicago public schools, believes that accurate reporting is a key to reducing the assault problem. The city has been keeping figures on assaults for a number of years, but recent data are more reliable because of improved reporting procedures.

Chief Brady, who is also president of the International Association of School Security Directors, has had his department analyze the data which the Chicago public schools have collected on assaults over the past 10 years. He reports that the typical assault on a teacher occurs when the teacher disciplines a pupil or breaks up a fight. Usually the assailant is a boy in grades 7 to 10 who is a student of the teacher's. Few outsiders and parents have assaulted teachers in Chicago.

Chief Brady says the greatest number of incidents occur (a) in schools in integrated neighborhoods; (b) between 11:30 a.m. and 3:30 p.m.; (c) on Fridays; (d) in March, April, and May. During those months, he notes "children may be getting restless in school."

Because Chicago has these data, the system is able to station members of its security force in trouble spots at critical times. As a result, claims Chief Brady, from 1969–70 to 1970–71, all assaults on the system's 40,000 employees decreased 7 percent and serious assaults decreased 47 percent.

What have been the reactions throughout the country to the increased violence in the schools—especially assaults on teachers?

Jim A. Roady, president of the Association of Classroom Teachers of NEA, notes that some teachers—especially in large urban areas—are as concerned about their own safety as they are about the teaching-learning process. He says that at the last ACT Representative Assembly, the delegates passed the following resolution [52–71] that expresses an awareness of danger to teachers and students and urges that they be protected:

ACT is concerned that school disorders threaten the health, safety, and well-being of both students and teachers in many schools. It maintains that no teacher should be required or expected to teach or students be expected to learn in an atmosphere of threats and disorder.

ACT believes that a teacher must be free to use reasonable force to protect himself from attack and to protect other teachers and students from harm.

ACT calls upon local associations (a) to help identify the underlying sources of student hostility; (b) to help set up procedures designed to give a fair hearing to student grievances; and (c) to work with school personnel and communities to ensure a safe environment within the public schools. ACT commends those associations that have already taken such steps.

Teacher organizations in some parts of the country are having security clauses written into their negotiated contracts. The Education Association of Alexandria, Virginia, has a clause in its contract which provides that a student excluded by the teacher "will not be returned to class until both the teacher and the principal agree that the issue or action involved in the exclusion of the student has been given disciplinary attention."

The contract of the Erie (Pennsylvania) Education Association states that the school board must provide insurance coverage for a teacher who suffers physical disability as a result of malicious assault by a student or nonstudent while on school premises or on school business. The contract also states that a teacher's absence because of such an assault will not be charged against his sick leave and that the board will continue paying his salary and benefits for up to two years from the date of the injury (providing he turns over to the board certain insurance benefits he receives as a result of the assault).

Teachers associations are reacting politically to assaults on their members, too. After the beating of the kindergarten teacher in Madison, Madison Teachers, Inc., ar-

ranged to have an ordinance dealing with student disruption, destruction, and teacher assaults introduced before the city council.

The ordinance limits the types of personnel who may enter a school building without registering at the office and provides fines and/or jail sentences for violators. Association officials appeared before the council in behalf of the measure, and it was subseqently passed.

After an assault on a teacher, students, teachers, and parents become anxious. The *New York Post* reported that ever since a teen-ager raped a Bronx elementary teacher in her classroom, teachers in a Harlem elementary school "group together and dash out of the building" when the school day is over. And the *New York Times* quoted the president of the parents association at the school where the rape took place as saying, "All of our parents are concerned. If it could happen to a teacher, which is horrible enough, it could happen to a child." The president asked that a security guard be stationed at the school.

The request is not untypical. Many educators and parents demand that school systems beef up security forces after a violent incident occurs. For example, the New York City system added more guards to its security force after the rape incident. [See page 18 of the October 1970 issue of Today's Education for a discussion of the topic, "Police in the Schools."]

On the national level, Congressman Jonathan B. Bingham of New York City introduced The Safe Schools Act of 1971, a bill which would provide federal funds to local school districts to combat rapidly rising costs and incidents of crime in elementary and secondary schools. A spokesman for Mr. Bingham states that the bill has a number of sponsors with diverse political opinions—from Louise D. Hicks of Boston to Shirley Chisholm of New York City. He also says that House Education and Labor Committee Chairman Carl D. Perkins of Kentucky supports it.

The causes for the increase in assaults on teachers are similar to those for other crimes in the schools. The Syracuse University study lists 10 societal and six in-school causes of disruptions.

Number one in the societal causes is the climate of violence in the United States. Students live in times when "every day, physical confrontations between and among humans in America are in the news."

The study also points to student response to the civil rights and college protests as a cause of violence in the secondary schools. Students realize that the civil rights protests of the 1960's were against "laws and practices which were on the books." The protests were awarded legitimacy by many leaders. Few students missed the point, and many of them now believe they have the "right" to change rules they consider "wrong" and by almost any means. In the case of the college protests, these have had a "ripple" effect on secondary students who feel some kinship to their older counterparts.

Among other societal causes of violence in the secondary schools listed in the Syracuse study are the new permissiveness and racism—black and white.

In discussing the six in-school causes, the study points to inadequate facilities in city schools which result in overcrowding, noise, and fatigue—factors that provide a "ripe climate for disruption." It also cities disputes arising between students and educators over restrictions on dress, smoking, student newspapers, and so on; disputes which occur when large numbers of young people and adults from different neighborhoods and different racial and ethnic strains mix; and the increasing politicalization of schools. On the last point, the study notes that students who have been politicized by the media, by local community leaders, and by the "more political teachers at the school" become deeply dissatisfied with conditions in American life and may create scenes at school simply because that is where they are.

What are some recommendations to deal specifically with the problem of assaults on teachers? (Some of these, of course, may help to prevent other types of violence in the schools.)

ACT President Roady believes that in the long run the best way to cease the problem of violence in the schools would be to make school a place where everyone—administrators, teachers, students—is treated like a human being. To humanize the schools, he says, "We need to overhaul our educational system—beginning with teacher training. I had no preparation in college on how to be a human being. That was back in the days when the teacher was supposed to sit up on a pedestal, the kids were supposed to sit down below somewhere, and neither party was supposed to bridge the gap."

Mr. Roady notes, however, that some teacher-training institutions now offer workshops on human relations and sensitivity training and provide their students with more exposure to kids all through the college years instead of just dropping them in a classroom for a semester in senior year.

Marion M. Landgraf, a consultant for school nurses to the American Association for Health, Physical Education, and Recreation (an NEA national affiliate), agrees with Mr. Roady on the importance of exposing prospective teachers to children in a classroom all through their college years and of training them to be aware of the kinds of behavior and activity that bring out violence in youngsters. Perhaps, she suggests, college students could take a course in child physchology and at the same time visit classes for the emotionally disturbed where they might witness a youngster's acting-out behavior and see how an experienced teacher handles it. If the college students participate as well as observe in elementary and secondary classrooms, their education becomes more meaningful.

To deal with the aggressive, acting-out child in the school, Mrs. Landgraf recommends that schools set up special rooms where the hostile child may go for help. Here the youngster should be able to talk about his problems with someone who is nonjudgmental and nonthreatening, perhaps the school nurse or counselor. She recommends a team approach: classroom teacher; parents; counselor, school nurse, and other specialists all working together to discover the cause of the child's aggressive behavior.

Mrs. Landgraf emphasizes that "schools must not be punitive; they must be therapeutic."

William Ellena, executive director of the American Association of School Administrators (an NEA national associate), also advocates a team approach. He recommends that all the professionals in a school work on a collegial basis, bringing together whatever expertise or competence is needed to deal with a particular child. "Differentiated staffing if a probe in that direction," he says.

In dealing with the emotionally disturbed youngster, Dr. Ellena notes schools may need access to a host of specialists, including psychologists and psychiatrists. "School people know how to do much better than they can afford to do at the present time," he says.

Chief Brady of the Chicago system recommends that school districts—

Set up a Department of Security many systems already have a Department of Plant Security).

Establish special classes at the elementary level and special schools at the secondary level for children who may become or already are problem pupils. (The Early Remedial Approach classes in elementary schools in Chicago are for children who are deficient in math and reading skills—many of whom might become serious discipline problems. The Social Adjustment Schools in the city are for older youngsters who have difficulty adjusting to life in a typical high school.)

Distribute identification cards to high schoolers. (Since September 1969 every high school pupil in Chicago has had such a card, containing a color picture of himself and his daily schedule. The cards are color-coded to indicate each student's lunch period.) Chief Brady says that these cards help school security officers pinpoint intruders in a building.

Keep accurate records of all violent and destructive incidents that occur on school property.

Maintain a force of security officers who "like young people and are able to know them as friends."

Develop an alarm system so that those involved in violent incidents may receive prompt assistance from school or city security forces.

Involve students, parents, staff, and the community in decision-making processes.

Dr. Patterson of the New York City school system believes school violence will continue until our nation eliminiates its root causes—poverty, ignorance, discrimination. However, he says that schools must work on short-range solution of the problem—establishing a security patrol composed of individuals who are sensitive to young people and setting up special schools for extremely aggressive children. Dr. Patterson also recommends that teachers and administrators receive training in self-defense and security so that they will be able to deal intelligently with emergencies and hostile pupils.

At least one course in this area has already been presented. In 1969–70, Millard Fillmore College of the State University of New York in Buffalo offered a controversial, no-credit workshop, Methods and Techniques of Working with Children in Conflict. Taught by Herbert L. Foster, associate professor of education, the course met for 12 weeks—six weeks of lecture and discussion and six of gym instruction in physical intervention techniques. The purpose of the workshop was to instruct participants in how to help youngsters control aggressive and out-of-control behavior and how to become sensitive to a child's early warning signals if impending over aggressive behavior.

Participants practiced breaking up fights; falling without hurting themselves; and disarming a child attacking with a knife, scissors, or lead pipe. Throughout the sessions, participants were cautioned not to overuse force to contain a violent child.

The increase in assaults on teachers in the past few years is a symptom of the times: an era of increasing violence in America.

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 60 minutes, on March 1; to revise and extend his remarks and to include extraneous matter.

(The following Members (at the request of Mr. BAKER) and to revise and extend their remarks and include extraneous matter:)

Mr. DERWINSKI, for 30 minutes, today.

Mr. CONTE, for 15 minutes, today.

Mr. KEITH, for 5 minutes, today.

Mr. FINDLEY, for 10 minutes, today.

Mr. WHALEN, for 15 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. VEYSEY, for 5 minutes, today.

Mr. SHOUP, for 10 minutes, today.

Mr. CRANE, for 60 minutes, today.
Mr. MCCOLLISTER, for 5 minutes, today.
Mr. ANDERSON of Illinois, for 30 minutes, today.
Mr. BLACKBURN, for 5 minutes, today.
Mr. MCDONALD of Michigan, for 15 minutes, today.
Mr. WHALLEY, for 15 minutes, today.
Mr. HALPERN, for 10 minutes, today.
Mr. GERALD R. FORD, for 5 minutes, today.
(The following Members (at the request of Mr. STOKES) and to revise and extend their remarks and include extraneous matter:)
Mr. RODINO, for 10 minutes, today.
Mr. GONZALEZ, for 10 minutes, today.
Mr. DAVIS of South Carolina, for 10 minutes, today.
Mr. BURKE of Massachusetts, for 10 minutes, today.
Mr. MINISH, for 5 minutes, today.
Mr. PATMAN, for 10 minutes, today.
Mr. KASTENMEIER, for 10 minutes, today.
Mr. BOGGS, for 10 minutes, today.
Mr. ASPIN, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GROSS and to include an editorial.
Mr. MILLS of Arkansas and Mr. BYRNES of Wisconsin to revise and extend their remarks and include extraneous matter on all bills brought up today under unanimous consent.
Mrs. MINK to revise and extend her remarks during consideration of the bill, H.R. 1467.
Mr. MATSUNAGA, to extend his remarks immediately preceding the adoption of the following bills: H.R. 1467, H.R. 9900, and H.R. 11185.
(The following Members (at the request of Mr. BAKER) and to include extraneous matter:)
Mr. GUBSER in three instances.
Mr. CLEVELAND in two instances.
Mr. MCKINNEY.
Mr. GUDE in five instances.
Mrs. HECKLER of Massachusetts.
Mr. BRAY in three instances.
Mr. WHITEHURST.
Mr. HILLIS.
Mr. LATTA.
Mr. DERWINSKI in two instances.
Mr. FINDLEY.
Mr. TERRY.
Mr. WYMAN in two instances.
Mr. SHOUP.
Mr. MCDADE.
Mr. SHRIVER in two instances.
Mr. ANDERSON of Illinois in two instances.
Mr. PRICE of Texas.
Mr. RAILSBACK in two instances.
Mr. VANDER JAGT.
Mr. WAMPLER.
Mr. RHODES.
Mr. GOODLING.
Mr. MICHEL in two instances.
Mr. KEITH in three instances.
Mr. KEATING.
Mr. HUNT.
Mr. ARENDS in two instances.
Mr. SCHMITZ in two instances.
Mr. BROOMFIELD.
Mr. HOSMER in two instances.
Mr. MCCLORY.
(The following Members (at the request of Mr. STOKES) and to include extraneous matter:)
Mr. ALEXANDER in two instances.
Mr. CARNEY in two instances.
Mr. EILBERG in two instances.
Mr. STOKES.
Mr. SYMINGTON in three instances.
Mr. HARRINGTON in five instances.
Mr. CORMAN in two instances.
Mr. HAGAN in three instances.
Mr. RARICK in three instances.
Mr. KLUCZYNSKI in two instances.
Mr. ASPIN in 10 instances.
Mr. RODINO.
Mr. DINGELL.
Mr. MILLER of California in five instances.
Mr. ROGERS.
Mr. HUNGATE in three instances.
Mr. JONES of Alabama.
Mr. BRASCO.
Mr. EVINS of Tennessee in three instances.
Mr. FOUNTAIN in three instances.
Mr. O'HARA in two instances.
Mr. DIGGS.
Mr. HAMILTON in three instances.
Mr. FLOOD in two instances.
Mr. ANNUNZIO in three instances.
Mr. WILLIAM D. FORD.
Mr. MIKVA in eight instances.
Mr. BRINKLEY.
Mr. DOW.
Mr. HICKS of Washington.
Mr. BOLLING.
Mr. JARMAN in two instances.
Mr. YATRON.
Mr. FRASER in two instances.
Mr. JACOBS.
Mr. PATMAN in three instances.
Mr. HANNA in three instances.
Mr. MATSUNAGA in five instances.
Mr. KEE in two instances.
Mr. REES.
Mr. GALLAGHER.
Mr. TIERNAN.
Mr. HELSTOSKI in 10 instances.
Mr. DANIELSON.
Mr. ST GERMAIN in two instances.
Mr. BINGHAM.
Mr. HANLEY.
Mr. JONES of Tennessee.
Mrs. GRIFFITHS.
Mr. ULLMAN in 10 instances.
Mr. KYROS.
Mr. LONG of Maryland.
Mr. HOLIFIELD in three instances.
Mr. EDMONDSON in two instances.
Mr. RANGEL.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1824. An act for the relief of Clinton M. Hoose;
H.R. 2828. An act for the relief of Mrs. Rose Scanio;
H.R. 2846. An act for the relief of Roy E. Carroll;
H.R. 4497. An act for the relief of Lloyd B. Earle;
H.R. 4779. An act for the relief of Nina Daniel;
H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets Nos. 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes;
H.R. 6998. An act for the relief of Salman M. Hilmy; and
H.R. 7871. An act for the relief of Robert J. Beas.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 2714. An act for the relief of Mrs. Kayo N. Carvell;
H.R. 2792. An act for the relief of Juanita Savedia Varela;
H.R. 3093. An act for the relief of Mrs. Crescenia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna;
H.R. 4319. An act for the relief of Josephine Dumpit;
H.R. 5179. An act for the relief of Soo Yong Kwak;
H.R. 6506. An act for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber;
H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis);
H.R. 7316. An act for the relief of Mrs. Norma McLeish;
H.R. 8540. An act for the relief of Eleonora G. Mpolakis;
H.R. 8699. An act to provide an Administrative Assistant to the Chief Justice of the United States.
H.R. 9180. An act to provide for the temporary assignment of a U.S. magistrate from one judicial district to another; and
H.R. 11738. An act to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with Boy Scout Jamborees, and for other purposes.

ADJOURNMENT

Mr. STOKES. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 5 o'clock and 58 minutes p.m.) the House adjourned until tomorrow, Wednesday, March 1, 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:

1664. A letter from the Secretary of Agriculture, transmitting the 1971 Annual Report of the Federal Crop Insurance Corporation; to the Committee on Agriculture.
1665. A letter from the Secretary of Defense, transmitting a report on disbursements from the appropriation for "Contingencies Defense" in the Department of Defense Appropriation Act, fiscal year 1972, covering the period July–December 1971; to the Committee on Appropriations.
1666. A letter from the Executive Secretary, Federal Metal and Nonmetallic Mine Safety Board of Review, transmitting the

1971 Annual Report of the Board, pursuant to 30 U.S.C. 730(1); to the Committee on Education and Labor.

1667. A letter from the Acting Secretary of State, transmitting a draft of proposed legislation to strengthen and improve the organization of the Department of State, and for other purposes; to the Committee on Foreign Affairs.

1668. A letter from the Acting Secretary of State, transmitting a draft of proposed legislation to authorize appropriations for the Department of State, and for other purposes; to the Committee on Foreign Affairs.

1669. A letter from the National Secretary-Treasurer, Sons of Union Veterans of the Civil War, transmitting the audit report for 1971 and the proceedings of the 90th annual encampment of the organization, pursuant to Public Law 83-605; to the Committee on the Judiciary.

1670. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes; to the Committee on Merchant Marine and Fisheries.

1671. A letter from the Acting Administrator of General Services, transmitting an amendment to the authorized prospectus for the Federal Office Building, Chicago, Ill., pursuant to 73 Stat. 480; to the Committee on Public Works.

1672. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to establish a national policy relating to conversion to the metric system in the United States; to the Committee on Science and Astronautics.

RECEIVED FROM THE COMPTROLLER GENERAL

1673. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the financial activity of the Federal hydroelectric system operated by the Department of the Interior and the Department of the Army in the Missouri River Basin; to the Committee on Government Operations.

1674. A letter from the Comptroller General of the United States, transmitting a report on improved production cost data for individuals nuclear weapons systems to be provided to the Congress by the Atomic Energy Commission; to the Commission on Government Operations.

1675. A letter from the Comptroller General of the United States, transmitting a report on causes of shipbuilders' claims for price increases, Department of the Navy; 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. CELLER: Committee on the Judiciary. S. 1975. An act to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age; with amendments (Rept. No. 92-869). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCLORY: Committee on the Judiciary. H.R. 2589. A bill to amend section 1869 of title 28, United States Code, with respect to the information required by a jury qualification form; with amendments (Rept. No. 92-870). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 631. A bill for the relief of the village of River Forest, Ill.; with amendment (Rept. No. 92-871). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New York: Committee on the Judiciary. H. R. 632. A bill for the relief of the village of River Forest, Ill. (Rept. No. 92-872). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRASER: Committee on Foreign Affairs. H.R. 11948. A bill to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law. (Rept. No. 92-886). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Foreign Affairs. H.R. 12828. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes; with amendments (Rept. No. 92-887). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRASER: Committee on Foreign Affairs. House Joint Resolution 984. Joint resolution to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property; with amendments (Rept. No. 92-888). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. House Joint Resolution 253. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in Congress; with amendment (Rept. No. 92-889). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 850. Resolution providing for the consideration of H.R. 11384, a bill to extend the act of September 30, 1965, relating to high-speed ground transportation, by enlarging the authority of the Secretary to undertake research and development, removing the termination date thereof, and for other purposes (Rept. No. 92-890). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 851. Resolution providing for the consideration of H.R. 11416, a bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes (Rept. No. 92-891). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of New York: Committee on the Judiciary. H. R. 2131. A bill for the relief of Howrey Lumber Co.; with amendment (Rept. No. 92-873) Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 3413. A bill for the relief of Dr. David G. Simons, lieutenant colonel, U.S. Air Force (retired); with amendment (Rept. No. 92-874). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 3751. A bill for the relief of Albert W. Reiser, Jr.; with amendment (Rept. No. 92-875). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 5299. A bill for the relief of Maj. Henry C. Mitchell (retired); with amendment (Rept. No. 92-876). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 5315. A bill for the relief of Gary R. Uttech; with amendment (Rept. No. 92-877). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 6820. A bill for the relief of John W. Shafer, Jr.; with amendment (Rept. No 92-878). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 7946. A bill for the relief of Jerry L. Chancellor; with amendments (Rept. No. 92-879). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 8952. A bill for the relief of Donald P. Lariviere (Rept. No. 92-880). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 9473. A bill for the relief of Mrs. Rosanna Thomas; with amendment (Rept. No. 92-881). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 11045. A bill for the relief of Mr. and Mrs. John F. Fuentes (Rept. No. 92-882). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. S. 247. An act for the relief of Albert G. Feller and Flora Feller; with amendment (Rept. No. 92-883). Referred to the Committee of the Whole House.

Mr. WALDIE: Committee on the Judiciary. S. 341. An act for the relief of Arline Loader and Maurice Loader (Rept. No. 92-884). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. S. 888. An act for the relief of David J. Crumb; with amendment (Rept. No. 92-885). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 13427. A bill to amend the Intergovernmental Personnel Act of 1970 to provide for the employment of younger citizens of States and local governments as a means of increasing administrative, technical, and professional skills available to local and State governments, thereby strengthening the federal system; to the Committee on Education and Labor.

H.R. 13428. A bill to establish in the Department of Health, Education, and Welfare an Office for the Handicapped to coordinate programs for the handicapped, and for other purposes; to the Committee on Education and Labor.

H.R. 13429. A bill to provide for the establishment of an Older Workers Conservation Corps, and for other purposes; to the Committee on Education and Labor.

H.R. 13430. A bill to amend section 612 of title 38, United States Code, to authorize the establishment of residential halfway houses for the treatment of drug dependent veterans and permit, incidental to their treatment, the necessary treatment of the drug-dependent spouse of a drug-dependent veteran; to the Committee on Veterans' Affairs.

By Mr. ADAMS (for himself, Mr. ANDERSON of Tennessee, Mr. CARTER, Mr. CLARK, Mr. CONTE, Mr. DINGELL, Mr. DRINAN, Mr. FISH, Mr. FLOWERS, Mr. WILLIAM D. FORD, Mr. GARMATZ, Mr. GREEN of Pennsylvania, Mrs. HANSEN of Washington, Mr. HECHLER of West Virginia, Mrs. HICKS of Massachusetts, Mr. HOWARD, Mr. KYROS, Mr. McDADE, Mr. NIX, Mr. RANGEL, Mr. ROSENTHAL, and Mr. RYAN):

H.R. 13431. A bill to amend the Public Works and Economic Development Act of

1965, as amended, to establish an emergency Federal economic assistance program, to authorize the President to declare areas of the Nation which meet certain economic and employment criteria to be economic disaster areas, and for other purposes; to the Committee on Public Works.

By Mr. ALEXANDER:

H.R. 13432. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. ANNUNZIO:

H.R. 13433. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. ASPINALL (for himself Mr. SAYLOR, Mr. JOHNSON of California, Mr. HOSMER, Mr. RONCALIO, Mr. MCKEVITT, Mr. MELCHER, Mr. SKUBITZ, Mr. ABOUREZK, and Mr. SEBELIUS):

H.R. 13434. A bill to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

By Mr. ASPINALL (for himself, Mr. SAYLOR, Mr. JOHNSON of California, Mr. HOSMER, Mr. RONCALIO, Mr. MCKEVITT, Mr. STEIGER of Arizona, and Mr. LLOYD):

H.R. 13435. A bill to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

By Mr. COLLIER:

H.R. 13436. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. DOW:

H.R. 13437. A bill to amend the Federal Aviation Act of 1958 to prohibit the expenditure of Federal funds for certain airport development projects unless the Secretary of Transportation certifies that there has been afforded the opportunity for public hearings to consider the economic, social, and environmental effects of such development and its consistency with local planning, and for other purposes; to the Committe on Interstate and Foreign Commerce.

By Mr. FLOWERS (for himself and Mr. NICHOLS):

H.R. 13438. A bill to amend the Wild and Scenic Rivers Act by designating a certain river in the State of Alabama for potential addition to the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. FULTON:

H.R. 13439. A bill to amend and expand the Emergency Employment Act of 1971 to reduce national unemployment and stimulate noninflationary economic growth; to the Committee on Education and Labor.

By Mr. HICKS of Washington:

H.R. 13440. A bill to amend title II of the Social Security Act to provide that all benefits based upon the attainment of age will be payable at age 60, subject to actuarial reduction; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mr. RYAN):

H.R. 13441. A bill to amend the Child Nutrition Act of 1966 to permit the waiver of matching requirements in special and unusual circumstances; to the Committee on Education and Labor.

By Mr. McCOLLISTER:

H.R. 13442. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for amounts expended by law enforcement officers and firemen for meals which they are required to eat while on duty; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 13443. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. MAZZOLI:

H.R. 13444. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of minerals; to the Committee on Ways and Means.

By Mr. MILLER of Ohio:

H.R. 13445. A bill to require the National Railroad Passenger Corporation to provide free or reduced-rate transportation for certain railroad employees; to the Committee on Interstate and Foreign Commerce.

By Mr. MIZELL:

H.R. 13446. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. MOLLOHAN (for himself, Mr. ROBISON of New York, Mrs. ABZUG, Mr. BINGHAM, Mr. BRASCO, Mr. BURTON, Mr. CAREY of New York, Mr. DENT, Mr. DRINAN, Mr. EILBERG, Mr. FISHER, Mr. FRELINGHUYSEN, Mr. HALPERN, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. MAZZOLI, Mr. McDADE, Mr. MELCHER, Mrs. MINK, Mr. MOSHER, Mr. NIX, Mr. QUIE, Mr. RANGEL, and Mr. RYAN):

H.R. 13447. A bill to establish an Emergency Medical Services Administration within the Department of Health, Education, and Welfare to assist communities in providing professional emergency medical care; to the Committee on Interstate and Foreign Commerce.

By Mr. MONAGAN:

H.R. 13448. A bill to amend title 18 of the United States Code to permit certain mailings of newspapers carrying advertisements of State sponsored lotteries and of lotteries legal under applicable State law; to the Committee on the Judiciary.

H.R. 13449. A bill to amend title 39 of the United States Code to exempt certain newspaper advertisements of lotteries which are legal under applicable State law, or sponsored by a State, from the list of nonmailable matter; to the Committee on Post Office and Civil Service.

By Mr. PERKINS:

H.R. 13450. A bill to provide for environmental improvement in rural America; to the Committee on Agriculture.

H.R. 13451. A bill to strengthen and improve the Older Americans Act of 1965, and for other purposes; to the Committee on Education and Labor.

H.R. 13452. A bill to provide for a program of demonstration projects to test and evaluate the effectiveness, nutritional benefits, administrative procedures, and potential costs of a Universal Food Service and Nutrition Education Program for Children; to the Committee on Education and Labor.

H.R. 13453. A bill to impose a tax on the severance of oil, gas, and coal, and to return the proceeds of such tax to the counties from which such oil, gas, or coal was taken; to the Committee on Ways and Means.

By Mr. PUCINSKI:

H.R. 13454. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. QUILLEN (for himself, Mr. ARENDS, Mr. MATHIS of Georgia, Mr. SCOTT, Mr. DUNCAN, Mr. COTTER, Mr. HALEY, Mr. BENNETT, Mr. GROSS, Mr. HUTCHINSON, Mr. SAYLOR, Mr. WAGGONNER, Mr. PIKE, Mr. SEBELIUS, Mr. LATTA, Mr. BAKER, Mr. STEPHENS, Mr. WYMAN, Mr. STEIGER of Arizona, Mrs. HANSEN of Washington, Mr. ANDREWS, Mr. GOODLING, Mr. PIRNIE, Mr. FISHER, and Mr. BROWN of Michigan):

H.R. 13455. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

By Mr. QUILLEN (for himself, Mr. MILLER of Ohio, Mr. BARING, and Mr. RARICK):

H.R. 13456. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 13457. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RUNNELS (for himself, Mr. ABBITT, Mr. ALEXANDER, Mr. BLANTON, Mr. CLEVELAND, Mr. CRANE, Mr. DAVIS of South Carolina, Mr. DUNCAN, Mr. FISHER, Mr. JONES of North Carolina, Mr. McDADE, Mr. MATHIS of Georgia, Mr. POWELL, Mr. SCHMITZ, Mr. SIKES, Mr. STEIGER of Arizona, Mr. VEYSEY, Mr. WAGGONNER, and Mr. YOUNG of Florida):

H.R. 13458. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 13459. A bill to amend section 143 of title 23, United States Code, relating to economic growth center development highways; to the Committee on Public Works.

By Mr. THOMPSON of Georgia:

H.R. 13460. A bill to amend section 109 of title 23 of the United States Code relating to selection of highway routes; to the Committee on Public Works.

By Mr. VEYSEY (for himself and Mr. MAZZOLI):

H.R. 13461. A bill to assure opportunities for employment and training to unemployed and underemployed men and women, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

By Mr. WIGGINS (for himself, Mr. BUCHANAN, Mr. FLOWERS, Mr. HOSMER, Mr. HUNT, Mr. KEATING, Mr. MCCLURE, Mr. MANN, Mr. MICHEL, and Mr. WAGGONNER):

H.R. 13462. A bill to amend title 18 of the United States Code to provide penalties for the taking and holding of hostages by inmates of Federal prisons, and for the making of certain agreements with such inmates to secure the release of such hostages; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON:

13463. A bill to require that an additional $4 per month (reflecting post 1970 across-the-board increases in social security and railroad retirement benefits) be passed along to public assistance recipients, either by disregarding such amount in determining their need or otherwise; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 13464. A bill to authorize the Secretary of the Interior to perform certain work to replace or relocate structures or facilities owned by Governmental agencies; to the Committee on Interior and Insular Affairs.

By Mr. BLACKBURN:

H.R. 13465. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances ex-

clusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLLING:

H.R. 13466. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. BRADEMAS (for himself, Mr. REID, Mr. SCHEUER, and Mr. HANSEN of Idaho):

H.R. 13467. A bill to amend the Library Services and Construction Act to provide for a public library service program for older persons; to the Committee on Education and Labor.

By Mr. CARNEY:

H.R. 13468. A bill to amend the Economic Stabilization Act of 1970 to provide that food products shall not be exempt from guidelines issued which limit increases of the levels of prices; to the Committee on Banking and Currency.

By Mr. CONTE:

H.R. 13469. A bill to authorize the Council on Environmental Quality to carry out a county government environmental control demonstration project; to the Committee on Merchant Marine and Fisheries.

By Mr. DANIELS of New Jersey:

H.R. 13470. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. DENT:

H.R. 13471. A bill to amend title 32, United States Code, to provide that Army and Air Force National Guard technicians shall not be required to wear the military uniform while performing their duties in a civilian status; to the Committee on Armed Services.

By Mr. DULSKI:

H.R. 13472. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. FREY:

H.R. 13473. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. HALPERN:

H.R. 13474. A bill to amend title 28, United States Code, to create a commission to ascertain the qualifications of prospective appointees to positions as justices or judges of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KEATING:

H.R. 13475. A bill to amend section 232 of the National Housing Act to include fire safety equipment among the items which may be covered by an insured mortgage thereunder, to require (as a condition of eligibility for mortgage insurance) that a nursing home or intermediate care facility comply with the Life Safety Code, and to authorize insured loans to provide fire safety equipment for such a home or facility; to the Committee on Banking and Currency.

H.R. 13476. A bill to amend title VI of the Public Health Service Act to provide that a facility for long-term care must comply with the Life Safety Code in order to qualify for assistance thereunder; to the Committee on Interstate and Foreign Commerce.

H.R. 13477. A bill to amend the Social Security Act to provide that an intermediate care facility (or nursing home) must comply with the Life Safety Code, and must fully disclose all ownership and security interests therein, to qualify as a provider of services for which payment may be made under a State's approved title XIX plan (or certain other State plans), and to provide that information which an intermediate care facility or nursing home is required to furnish State agencies under the title XIX program must be made available to the public; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 13478. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. PATTEN:

H.R. 13479. A bill to provide for the prevention of sickle cell anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER:

H.R. 13480. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. BURLESON of Texas, Mr. CARTER, Mr. BEVILL, Mr. FLOWERS, Mr. HARVEY, Mr. HULL, Mr. KAZEN, Mr. NICHOLS, Mr. PRICE of Texas, Mr. PREYER of North Carolina, Mr. PURCELL, Mr. ROBERTS, Mr. SAYLOR, Mr. STUCKEY, Mr. TEAGUE of Texas, and Mr. WRIGHT):

H.R. 13481. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. PURCELL:

H.R. 13482. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. QUIE:

H.R. 13483. A bill to amend the Internal Revenue Code of 1954 to allow the deduction of expenditures for food and lodging primarily for medical care; to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 13484. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. ROY:

H.R. 13485. A bill to amend the Railroad Retirement Act of 1937 to provide a 20-percent increase in annuities; to the Committee on Interstate and Foreign Commerce.

H.R. 13486. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income; to the Committee on Ways and Means.

By Mr. STEELE:

H.R. 13487. A bill to retain November 11, as Veterans Day; to the Committee on the Judiciary.

By Mr. STEPHENS (for himself, Mr. GETTYS, Mr. ANNUNZIO, and Mr. BRASCO):

H.R. 13488. A bill to amend section 24 of the Federal Reserve Act to simplify, consolidate, and improve the law relating to the investment in mortgages and residential real estate by national banks; to the Committee on Banking and Currency.

By Mr. WHITEHURST:

H.R. 13489. A bill to create a fund in the Treasury of the United States to be known as the Fund for Endangered Wildlife, to be administered by the Department of Interior, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ZION:

H.R. 13490. A bill to provide that the Secretary of the Interior may enter into agreements with the owners of property near Vincennes, Ind., for the inclusion of property in the George Rogers Clark National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. HOWARD:

H.J. Res. 1081. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. McCOLLISTER:

H.J. Res. 1082. Joint resolution to authorize the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week"; to the Committee on the Judiciary.

By Mr. RUNNELS (for himself, Mr. DOWDY, Mr. FISHER, Mr. GAYDOS, and Mr. STEELE):

H.J. Res. 1083. Joint resolution proposing an amendment to the Constitution of the United States limiting deficit spending by the Federal Government; to the Committee on the Judiciary.

By Mrs. SULLIVAN (for herself, Mr. GONZALEZ, and Mr. WILLIAMS):

H.J. Res. 1084. Joint resolution to amend title IV of the Consumer Credit Protection Act establishing the National Commission on Consumer Finance; to the Committee on Banking and Currency.

By Mr. HALPERN (for himself, Mr. MITCHELL, Mr. FAUNTROY, Mr. RYAN, Mrs. ABZUG, and Mr. STEELE):

H.J. Res. 1085. Joint resolution to establish a National Institute for the Study of China to provide instruction in Chinese language, history, and culture and to coordinate all governmental Chinese language programs; to the Committee on Education and Labor.

By Mr. GARMATZ (for himself, Mr. BEVILL, Mr. BRAY, Mr. BRINKLEY, Mr. CLANCY, Mr. DEVINE, Mr. FLYNT, Mr. LANDGREBE, Mr. LONG of Maryland, Mr. MILLS of Maryland, Mr. RARICK, Mr. SCHMITZ, and Mr. SIKES):

H. Con. Res. 543. Concurrent resolution expressing the sense of Congress with respect to those individuals who refused to register for the draft, refused induction or being a member of the Armed Forces fled to a foreign country to avoid further military service; to the Committee on Armed Services.

By Mr. GUDE (for himself, Mr. RODINO, Mr. HELSTOSKI, Mr. FORSYTHE, Mr. ESCH, Mr. RANGEL, and Mr. RAILSBACK):

H. Con. Res. 544. Concurrent resolution expressing the support of the Congress for the U.S. delegation to the United Nations Conference on the Human Environment; to the Committee on Foreign Affairs.

By Mr. ZABLOCKI:

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on American Prisoners of War in Southeast Asia, 1971—Part 2, by the Subcommittee on National Security Policy and Scientific Developments; to the Committee on House Administration.

By Mr. ECKHARDT:

H. Res. 852. Resolution to authorize and request designation of "National Check Your Vehicle Emissions Month"; to the Committee on the Judiciary.

By Mr. O'NEILL:

H. Res. 853. Resolution providing funds for the expenses of the investigations and studies authorized by House Resolution 819; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. BROYHILL of Virginia introduced a bill (H.R. 13491) for the relief of Antonio L. Azores; to the Committee on the Judiciary.