

recognition of the new educational purposes of museums, this bill would authorize \$25 million a year for the first year and \$30 million a year in two subsequent years to assist museums in modernizing their meth-

ods and facilities. The "museum services act" would be administered by an Institute for the Improvement of Museum Services to be established within the Department of Health, Education and Welfare. Such legislation, says

Senator Pell, would not only help the museums and thereby schools and colleges. It would also boost the nation's cultural growth. We wish the bill success on its way through Congress.

HOUSE OF REPRESENTATIVES—Monday, September 10, 1973

The House met at 12 o'clock noon. The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

O give thanks unto the Lord, for He is good; for His mercy endureth forever.—Psalms 106: 1.

Eternal Father of our spirits, as we stand upon the threshold of another day, we greet the rising sun with hearts filled with gratitude and with faith in Thy loving providence. In the midst of the daily discipline of demanding duties we would keep the avenues of our lives open to the source of all life and light.

Draw us into a closer harmony with Thee that we may hear the whispers of truth, feel the appeal of beauty, and respond to the call of love. Above all, make us like Thee that with courage and confidence our lives may shine in the darkness with the transforming light of a responsive and a responsible citizenship in our beloved America.

In Thy holy name we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arlington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4771. An act to authorize the District of Columbia Council to regulate and stabilize rents in the District of Columbia.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8825) entitled "An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes."

The message also announced that the Senate agreed to the House amendment

to Senate amendment No. 3 and that the Senate further insisted on its amendments Nos. 44 and 45, requested a further conference with the House and appointed Mr. PROXMIRE, Mr. McCLELLAN, Mr. PASTORE, Mr. BAYH, Mr. CHILES, Mr. MOSS, Mr. MATHIAS, Mr. YOUNG, Mr. CASE, and Mr. FONG as conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6912) entitled "An act to amend the Par Value Modification Act, and for other purposes."

The message also announced that the Senate agreed to the House amendment to Senate amendment No. 1 to the House amendment, and receded from its amendment No. 2 to the House amendment to S. 1385, authorizing funds for continuance of civil government for the Trust Territory of the Pacific Islands.

The message also announced that Mr. STEVENS and Mr. GRAVEL were appointed as ex officio conferees on S. 1081, to establish a Federal policy granting rights-of-way across Federal lands.

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

S. 1841. An act to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; and

S. 1914. An act to provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes.

TAX REFORM

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

Mr. CONABLE. Mr. Speaker, I note from a press statement, and this is the only way we find out about such decisions at this point, that the chairman of the Ways and Means Committee feels the committee will not work this fall on a tax reform bill, although some time will be spent on related pension reform. Perhaps his decision is based on the obviously unrealistic assessment of our autumn adjournment date by some majority party spokesmen and, therefore, is subject to change as time wears on and it becomes apparent that Congress will be in session for many weeks to come. Speaking as one rank-and-file member of the Ways and Means Committee, however, I feel that tax reform should have a high priority and that, regardless of

our capacity to take completed action, we should address this subject, if possible, in a nonelection year atmosphere. I am confident that we will have a tax reform bill, at public insistence, sooner or later, and the longer we let the pressure for it build, the less likely we are to deal with this issue carefully and thoroughly. Unless the committee addresses this issue in the near future, I fear that efforts will be made to attach so-called tax reform measures to unrelated bills, an unsatisfactory and sometimes even dangerous practice.

TAX REFORM—NOW

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

Mr. REUSS. Mr. Speaker, I want to second heartily the sentiments just expressed by our colleague from New York (Mr. CONABLE). I believe that loophole-plugging tax reform is a vital necessity for the economy this year. I hope that somehow or other the tax writing committee, the Committee on Ways and Means, can so compose and arrange itself that it will be able to present such a bill to us on the floor shortly.

I believe it is necessary not only from the obvious standpoint of equity that we repair the loopholes, preferences, and inequities in our tax system, but it is also necessary from the standpoint of combating inflation, and from the standpoint of coming to grips with the unconscionably high interest rates which are now dogging this country.

I have come just now from a hearing of the Committee on Banking and Currency, at which representatives of the housing and financial industries all called for tax reform now.

I hope the gentleman's words will be heeded.

TRIBUTE TO THE LATE HONORABLE J. VAUGHAN GARY

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

Mr. CONTE. Mr. Speaker, I am sure that any Member of this body who had the honor of serving here 10 years ago, was deeply saddened late last week to learn of the death of former Representative J. Vaughan Gary of Virginia.

For 20 years, from 1945 to 1965, Mr. Gary represented the people of Virginia's Third District in this body. And while he did an outstanding job for his constituents, his concerns and his efforts were truly national in scope.

As a member of the Appropriations

Committee, Mr. Gary brought to that committee a strong concern for fiscal economy. But, at the same time, this enlightened public servant recognized the great necessity in the late 1940's for this Nation to lend a helping hand to the war-ravaged nations across the seas.

Vaughan Gary rose to become chairman of the Treasury-Post Office Appropriations Subcommittee and for 6 years I had the great honor of serving with him on that body. A talented and dedicated worker, he provided leadership that earned him the deep admiration of every member of that subcommittee.

His two decades of service in the House were studded with achievements. One of these, with which I am most familiar, was his concern for the U.S. Coast Guard. At that time, the Coast Guard budget was under the jurisdiction of the Treasury-Post Office Subcommittee. Vaughan Gary had a deep appreciation of this great service. I accompanied him on numerous inspection trips to Coast Guard installations and he knew where every penny we appropriated went; he knew the Coast Guard's needs; and he worked endlessly to see that those needs were met.

Mr. Speaker, J. Vaughan Gary provided this House with an example of leadership which is hard to match. The Government and the country are diminished by his passing.

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

Mr. CONTE. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I join in the remarks made by the gentleman from Massachusetts (Mr. CONTE). I served with Vaughan Gary on the Committee on Appropriations for many, many years. I served with him on one subcommittee for a number of years. The gentleman from Virginia was one of the most responsible, most able, and most dedicated Members I have known in the Congress, and I mourn his passing, as I am sure all of those who served with him do.

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

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

Mr. PASSMAN. Mr. Speaker, I join in the remarks made by the gentleman from Massachusetts concerning the passing of my good friend, the late Honorable J. Vaughan Gary.

HEARINGS ON CONSUMER PROTECTION AGENCY BILLS

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

Mr. BROOKS. Mr. Speaker, Chairman HOLIFIELD of the Committee on Government Operations, who is unavoidably absent today, has asked me to advise the membership that hearings on bills to establish a Consumer Protection Agency will be held by the Subcommittee on Legislation and Military Operations on September 17, 18, 19, and 21, 1973.

These hearings will commence each day at 9:30 a.m. in the committee main hearing room, 2154 Rayburn House Office Building.

If any Member desires to testify before the subcommittee or to submit a statement for the record, he should advise the subcommittee staff in room B373, Rayburn House Office Building, telephone extension 55147. Prospective witnesses are asked to notify the subcommittee staff no later than Wednesday, September 12.

Chairman HOLIFIELD also asked me to announce that hearings will be held on September 12, 1973, at 9:30 a.m. in room 2154, Rayburn House Office Building, concerning the Cabinet Committee on Opportunities for Spanish-Speaking People. This is a continuation of a previous hearing to consider whether the Cabinet committee's funding authorization should be extended.

MORRIE ALEXANDER, MASTER CARVER

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

Mr. MEEDS. Mr. Speaker, on August 21, one of the Nation's best known and most respected Indian wood carvers died. Morrie Alexander, 57, suffered a heart attack. He was a member of the Lummi Tribe, whose reservation is located near Bellingham, Wash. I knew Morrie personally and had the honor of possessing one of his works, a striking totem pole carved here in Washington, D.C., during the annual American Folklife Festival.

Until a few years ago, Morrie Alexander was one of two remaining Lummi carvers. Anxious that the Nation not lose the splendid carvings that are so important in our heritage, the Ford Foundation extended assistance. Soon apprentices were learning the skill of carving under Morrie and Albert Charles.

To Morrie the fashioning of wood was also a teaching tool. Stories came alive as he carved and explained Indian history and legend. Ironically, on the day he died he was scheduled to visit Seattle to help dedicate a totem he had just carved for a local school.

Morrie Alexander's carvings adorn the homes, buildings, and offices of both Indians and non-Indians, and his stories tell the rich heritage of the Lummi people. He will be missed by his friends, his tribe, and all of us. But his spirit endures his passing, for Morrie Alexander was one of that small number of human beings who leave far more than they take from life.

THE MILITARY ALL-VOLUNTEER CONCEPT

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

Mr. MONTGOMERY. Mr. Speaker, I know the Members will be glad to hear

that I am planning a series of 1-minute speeches to discuss the military all-volunteer concept as it affects the Regulars and the Reserves.

I am concerned that the Army and Navy are having their problems reaching their strength goals.

On the other hand, I see the National Guard and Reserve having the opportunity without the crutch of the selective service of becoming our strongest combat arm under the total force concept.

I look forward to keeping my colleagues posted on this important defense subject.

STATE OF THE UNION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-1)

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

To the Congress of the United States:

As the Congress reconvenes for the closing months of the 1973 legislative season, it returns to a critical challenge.

Our country faces many pressing problems which must be solved with dispatch.

Americans want and deserve decisive action to fight rising prices. And they want every possible step taken now—not a year from now or in the next session of the Congress.

Americans want and deserve decisive action this year to ensure that we will have enough heat for our homes, enough power for our factories, and enough fuel for our transportation.

They want and deserve decisive action this year to combat crime and drug abuse. The national rate of serious crime is now heading down for the first time in 17 years, and they want that downward spiral to continue.

There is also an immediate need to improve the quality of our schools, reform Federal programs for our cities and towns, provide better job training, revamp our housing programs, institute lasting reforms in campaign practices, and strengthen our position in world markets.

Of transcending importance is America's continuing commitment to building a lasting structure of world peace. Our people are now at peace for the first time in more than a decade, and they expect their leaders to do all that is necessary to maintain the peace, including those actions which preserve the Nation's strong defense posture.

At the same time, it is apparent as the fall legislative season begins that many Members of the Congress wish to play a larger role in governing the Nation. They want to increase the respect and authority which the American people feel for that great institution.

Personally, I welcome a congressional renaissance. Although I believe in a strong Presidency—and I will continue to oppose all efforts to strip the Presidency of the powers it must have to be

effective—I also believe in a strong Congress.

In campaigning for the Presidency in 1968, I called for "national leadership that recognizes the need in this country for a balance of power. We must maintain," I said, "a balance of power between the legislative and the judicial and the executive branches of Government."

I still believe in that division of responsibility. There can be no monopoly of wisdom on either end of Pennsylvania Avenue—and there should be no monopoly of power.

The challenge is thus clear. The problems of the Nation are pressing, and our elected leaders must rise to the occasion. These next four months will be a time of great testing. If the Congress is to play its proper role in guiding the affairs of the Nation, now is the time for it to take swift and decisive action.

In sending this message to the Congress today, I want to refocus attention on more than 50 legislative measures which I proposed earlier this year. These proposals, along with my regular authorization requests, are now of the highest priority if we are to meet our responsibilities.

Frankly, the action taken by the Congress on my proposals so far this year has been far less than I had expected. commendable progress has been made on some fronts, and I have signed into law several bills which were the result of constructive compromise between the Congress and the Administration. Among them have been a new approach to farm legislation, a Federal highway bill which will also spur the development of mass transit systems, an increase in social security benefits, airport development legislation, amendments to the Rural Electrification Act, the Economic Development Administration and the Law Enforcement Assistance Administration authorizations, an Older Americans bill, an emergency farm loan bill, a national cemeteries bill and a medical care bill for veterans.

Yet the work that lies ahead in the final quarter of the year is far heavier and even more critical than that which has been accomplished so far. Nearly all of the significant proposals that I have submitted to the Congress still await final action. In addition, with more than two months of the new fiscal year already behind us, the Congress has passed only three of thirteen regular appropriations bill, all of which ideally should have been passed before the fiscal year began. I regret that it has also been necessary for me to veto six bills this year. Four of those vetoes have been sustained, and the final disposition on two of them has not yet been determined. I am hopeful that in some of these areas where I have exercised the veto, such as minimum wage legislation, the Congress will pass new legislation this fall which will meet my objections. The Congressional agenda for the next four months is thus long and urgent.

I realize that it will not be possible for the Congress to act this year on all of the legislation which I have submitted. But some of these measures respond directly to the most immediate problems

before the country. I will give special attention to them in this message, just as I trust the Congress to give special attention to them before the last gavel falls later this year.

In the spirit of responsible cooperation which must prevail between the Executive and the Congress if we are to make genuine progress this fall, I am fully prepared to work closely with Members of the Congress in hammering out modifications to these bills. Already this year I have met more often with the bipartisan leaders of the Congress than in any other year of my Presidency, and I hope to meet even more frequently with Members of the Congress during the coming weeks. In addition, Cabinet members and all other appropriate members of the Administration will be fully accessible and available. There are, of course, certain principles of vital national concern which cannot be compromised—the need for budgetary discipline for a strong national security posture, and for the preservation of the requisite powers of the executive branch. But within these limits I stand ready to find workable compromises wherever possible on solutions to our national problems.

The overriding question, however, is not the degree of compromise which is reached between the executive branch and the Congress, nor is it a matter of who receives the credit. The most important question concerns the results we achieve for the American people. We must work hard and we must work constructively over the next four months to meet the country's pressing needs. It is on that basis that we shall be judged.

THE FIRST GOAL: A BALANCED BUDGET

No issue is of greater concern to the American public than rising consumer prices. The battle against inflation must be our first priority for the remainder of this year.

The executive branch is already actively engaged in this fight:

- We have imposed a strong, new set of economic controls which should help to bring a reduction in the rate of inflation by the end of this year.
- We have taken a series of measures to expand food supplies, so that production will keep up with growing demands. The farm bill passed by the Congress and signed into law last month will make a significant contribution to this effort.
- Thirdly, the Federal Reserve System has been working to maintain reasonable controls on the flow of money within the economy, which is essential to reducing inflation.

We are moving in the right direction, but we must recognize that we can reach our goal only if we also apply the single most important weapon in our arsenal: control of the Federal budget. Every dollar we cut from the Federal deficit is another blow against higher prices. And nothing we could do at this time would be more effective in beating inflation than to wipe out the deficit altogether and to balance the Federal budget.

Eight months ago I submitted to the Congress a new budget calling for Federal outlays of \$268.7 billion during fiscal year 1974. Since that time, the Congress

has undertaken a serious and commendable effort to establish its own mechanism for controlling overall expenditure levels. If that effort succeeds, the Congress will have a much more reliable tool for holding spending to acceptable totals.

At the same time, the Administration has been working to increase the efficiency and thus cut the cost of the Government. We now expect to end the current fiscal year with no increase of civilian employees over last year's level and with 80,000 fewer employees than in 1972, despite the fact that the workload has increased. I have also acted to delay a pay increase for all Federal employees for a period of 60 days in order to hold the spending line. Clearly, the men and women in the Federal Government are doing their fair share in the inflation fight.

Yet the battle for essential budgetary discipline is still far from won. Although we are only two months into the new fiscal year, the Congress has already enacted programs which would exceed my total budget by some \$2 billion and it is considering additional legislation which, if passed, would add another \$4 billion of spending in excess of my budgetary requests. In addition, the Congress has failed to enact specific program reductions I have recommended which amount to nearly \$1½ billion. Thus, if the Congress continues to follow its present course, the American taxpayers will soon receive a bill for more than \$7 billion in increased spending.

These increases, if allowed to stand, would drive this year's budget over the \$275 billion mark. That figure would represent a 12 percent increase over last year's budget level. A continuation of that trend would increase the annual budget burden to some one-half trillion dollars by 1980. Clearly we need to draw the line against this tendency. And the time to draw the line is 1973, when excessive spending packs an inflationary wallop that is particularly dangerous.

The Congress has indicated a strong desire not only to control the total level of governmental outlays but also to determine which programs should be curtailed to achieve those levels. I call upon the Congress to act while there is still time, while vital spending bills are still before it, and while it can still go back and reconsider actions taken earlier this year. A great deal of the recent budget busting has been done not through the conventional appropriations process, but through "backdoor" funding and mandatory spending programs approved by legislative committees—two approaches which need to be carefully reviewed. I am fully prepared to work closely with the Congress in determining the best ways to control expenditures and in discussing the particular programs that should be cut back.

In our joint efforts, however, I continue to be adamantly opposed to attempts at balancing the overall budget by slashing the defense budget. We are already at the razor's edge in defense spending. In constant dollars, our defense spending in this fiscal year will be \$10 billion less than was spent in 1964, before the Vietnam war began. Our defense forces are at the lowest level since

the days just before the Korean war, and a smaller part of our gross national product is being spent on defense than in any year since 1950. Further cuts would be dangerously irresponsible and I will veto any bill that includes cuts which would imperil our national security.

Some people have become so accustomed to Federal deficits that they think a balanced budget is impossible. But balancing the Federal budget is no pipe-dream; it is a realistic goal. The figures for fiscal year 1973 show that we held spending more than \$3 billion below our target figure—and that the budget was actually in surplus during the last three months of the fiscal year.

This record was achieved in part because of the cooperation of the Congress in certain areas, and I am grateful for that cooperation. In other areas, however, congressional spending was excessive and I found it necessary to veto certain measures and reserve certain funds. I would have preferred not to have exercised those powers, but the public interest demanded that I take such actions. Should those actions prove necessary again in the months ahead, I will not hesitate to take them.

STRENGTHENING THE ECONOMY

The fight against inflation must move ahead on many fronts. Even as we strive to hold the line on Federal spending, we must also take a number of additional actions to strengthen the economy and curb rising prices.

TRADE REFORM ACT

One of the most important of all the bills now before the Congress is my proposed Trade Reform Act of 1973. It is important that final action on this measure be taken in the next four months.

This legislation represents the most significant reform of our approach to world trade in more than a decade. But it builds on a strong tradition, steadily maintained since the days of Franklin Roosevelt, of giving the executive branch the authority it needs to represent the Nation effectively in trade negotiations with other countries.

The weeks and months ahead are a particularly important time in international economic history. This month sees the formal opening of a new and highly important round of trade negotiations in Tokyo and the annual meeting of the International Monetary Fund and World Bank in Nairobi. The Nairobi meeting is highly important to international monetary reform negotiations. Decisions which grow out of both of these meetings will shape the world's economy for many years to come. The United States can be a much more effective participant in such discussions if the Congress provides the tools contained in my proposed trade reform legislation.

The United States continues to seek a more open trading world. We believe that artificial barriers against trade among nations are often barriers against prosperity within nations. But while the trading system should be more open, it should also be more fair. The trading game must be made equitable for all countries—giving our workers, farmers and businessmen the opportunity to sell to other countries goods which they produce most competitively and, as con-

sumers, to buy goods which their counterparts in other countries produce most competitively. In bargaining for a more open and more equitable trading system, our negotiators must be equipped with authorities comparable to those of their counterparts from other nations.

My trade reform legislation would provide a number of such authorities and thus would strengthen our bargaining position. I emphasize again that the Congress should set up what ever mechanism it deems best for closer consultation and cooperation with the executive branch to ensure that its views are properly represented as trade negotiations go forward.

At the same time, I have also requested actions to ensure that the benefits of expanding international trade are fairly distributed among our own people and that no segment of our economy is asked to bear an unfair burden. My proposals would give us greater flexibility in providing appropriate relief from imports which cause severe domestic problems and would also liberalize our programs of adjustment assistance and other forms of compensation to help workers who are displaced because of rising imports. They would also equip us to deal more adequately with the unfair trading practices of other countries, and through expanded trade, to "sop up" some of the excess dollar credits now held abroad which can play havoc with domestic markets.

Other authorities contained in the bill would give us greater flexibility to use trade policy in fighting inflation, correcting our balance of payments, expanding our exports, and advancing our foreign policy goals. One provision of this bill, authorizing the President to extend Most Favored Nation treatment to those countries which lack that status, would be particularly helpful in carrying out our foreign policy and I continue to give it my strong support.

Altogether, the proposed Trade Reform Act of 1973 represents a critical building block as we seek to construct a durable structure of peace in the world and a vibrant and stable economy at home. In the difficult negotiations which lie ahead, this legislation would enable us to assure more jobs for American workers, better markets for American producers, wider opportunities for American investors and lower prices for American consumers.

EXPORT ADMINISTRATION ACT

The Export Administration Act amendment which my Administration proposed on June 13th is another weapon which could be helpful in the fight against rising prices. One of the most important causes of the recent inflationary surge has been the extraordinary boom abroad and the additional demand which it has generated for our products. On the whole, this boom should be seen as a healthy, long-range development for our economy as well as for other countries. But as I said last June, when we have pressing shortages in this country and when we must choose between meeting needs abroad or at home, then "we must put the American consumer first."

This is why I have asked for new and more flexible authority to establish cer-

tain controls on food and other exports when and where they are needed. I continue, however, to oppose permanent controls because they can upset and discourage our entire pattern of healthy trade relationships and thus complicate the fight against inflation. Our limited controls on soybeans were changed last Friday to permit full exports on new contracts. This action was taken because we are convinced that stocks and new crop supplies are more than adequate to meet our own needs.

Nevertheless, I still seek the authority I requested last June to be sure we will be able to respond rapidly, if necessary, to new circumstances. I also emphasize that new controls will be imposed only if they are absolutely needed.

TAX REFORM

This Administration continues its strong opposition to a tax increase. We want to fight inflation and balance the budget by placing restraints on spending and not by adding to our current tax burdens.

At the same time, I remain vitally interested in finding ways to make our present tax structure fairer and simpler. Tax reform has been under consideration for some time and there is a continuing need for revising and simplifying the tax laws. My Administration has made some specific suggestions to that end and has indicated a willingness to work with the tax writing committees of the Congress in a general review of the Internal Revenue Code. This important task should be undertaken now rather than during an election year when political pressures invariably make such reform more difficult.

I would call special attention to one tax reform measure extensively discussed during the 1972 campaign and now pending before the Congress. That is my recommendation for providing property tax relief for older Americans. Retired people with low incomes bear a crushing and unfair property tax burden in many States. Even though their incomes decline with retirement, the property tax in many cases goes on rising. As a result, the home which should be a symbol of financial independence for older people often becomes another cause of financial strain. I again urge prompt action on the Administration's proposal to provide a special tax credit to help older people with lower incomes pay their property taxes. Simple justice demands it.

STOCKPILE DISPOSAL ACT

Another important action which the Congress can take in the battle against rising prices is to provide the necessary authority for selling part of our national strategic stockpile—materials which are no longer needed for national security. I requested such authority last April with regard to \$4 billion worth of goods in our stockpile. Such sales, by allowing us to increase supplies in the marketplace of major commodities, could help provide important relief for hard-pressed American consumers. Further, this bill could help to maintain and provide employment for workers whose jobs are dependent upon the availability of basic commodities such as aluminum,

zinc and copper, all of which are in short supply.

Our country's strategic stockpile still reflects the economic and military realities of the 1950's—in fact, 95 percent of the current stockpile was acquired before 1959. In the 1970's, however, our military requirements have changed—and so has our economic capacity to meet them. My proposed new guidelines for the stockpile would carefully protect our national security in the light of these changing realities, while substantially enhancing our economic health.

I regret that this legislation has not moved forward more rapidly during the past few months. In the name of national efficiency, thrift, and price stability, I call again for its prompt and favorable consideration.

OTHER ECONOMIC LEGISLATION

As I indicated in my message to Congress on August 3, I will shortly be submitting my legislation on the restructuring of financial institutions. This is a complex matter which requires thorough but prompt study by the Congress.

I call, too, for speedy enactment of legislation which has now emerged from conference which would establish the Council on International Economic Policy on a permanent basis.

MEETING THE ENERGY CHALLENGE

I have previously stated, and wish to restate in the most emphatic terms, that the gap between America's projected short-term energy needs and our available domestic energy supplies is widening at a rate which demands our immediate attention.

I am taking all appropriate measures within my authority to deal with this problem, seeking to increase our supplies and moderate our demands. Looking to the future, I have announced plans for a large scale increase in our research and development effort, and I have asked my top energy advisor, Governor John Love, to meet with State officials to seek temporary modifications of air quality standards. Such modifications would help to minimize fuel shortages this winter. In addition, I will soon be meeting with members of the Atomic Energy Commission to determine whether we can bring nuclear power plants on line more quickly. But the energy problem requires more than Presidential action; it also requires action by the Congress.

It is absolutely essential that the Congress not wait for the stimulation of energy shortage to provide the legislation necessary to meet our needs. Already we have seen some regional inconveniences this summer with respect to gasoline and this winter we may experience a similar problem with regard to heating fuels.

Over the long term, the prospects for adequate energy for the United States are excellent. We have the resources and the technology to meet our growing needs. But to meet those long-term needs and to avoid severe problems over the short term, we must launch a concentrated effort which mobilizes the Government, American industry and the American people.

I have recently called for passage of seven major energy bills now before the Congress. Not all of those can be acted

upon with equal speed, but four of these bills are of the highest urgency and must be acted upon before the end of this year. These four would provide for the construction of the Alaskan pipeline, construction of deepwater ports, deregulation of natural gas and establishment of new standards for surface mining. All four of these bills are addressed to both our short-term and long-term needs.

ALASKAN PIPELINE

Our first legislative goal—and one that should be achieved this month—is the enactment of an Alaskan pipeline bill. Construction of the pipeline would provide us with up to 2 million barrels of oil per day over which we would have full control and would simultaneously reduce by more than \$3 billion per year our need for oil imports. I have proposed legislation to avoid any further delay in the construction of the Alaskan pipeline and I am gratified that both Houses of the Congress have already passed variations of this proposal. I urge the earliest possible attention to these bills by the House-Senate Conference Committee, so that pipeline construction can begin.

DEEPWATER PORTS

Until domestic resources are in full production and technological progress has reached a point where sufficient energy sources are within reach, we will have to rely upon imports of foreign oil. At the present time, however, continental port facilities are inadequate to handle our import requirements.

Because of our limited port capacity, the super-tankers presently used for petroleum transport cannot be off-loaded anywhere on our Atlantic coast. I have therefore proposed measures to authorize the construction and operation of deepwater port facilities in a manner consistent with our environmental priorities and consonant with the rights and responsibilities of the States involved.

We must not delay this important legislation. To do so would further delay the economical import of petroleum and would mean increased costs to the American consumer, unnecessary threats to our coastal environment, and further loss of revenues to Canadian and Caribbean ports which are already capable of off-loading large super-tankers.

NATURAL GAS

For several years Federal regulation of natural gas has helped to keep the price of that product artificially low. Large industrial consumers have welcomed this system of regulations—it has helped them to hold their fuel costs down, and since natural gas is the cleanest of our fossil fuels, it has also enabled them to meet environmental standards at an artificially low cost. This system of regulation, however, has also had the unfortunate result of discouraging producers from expanding supplies. As a result of high consumption by industrial uses coupled with the reluctance of producers to explore and develop new sources of natural gas, we now face a natural gas shortage.

I have therefore proposed that we begin a gradual move to free market prices for natural gas by allowing the price of new supplies of domestic natural gas to be determined by the competitive forces of the marketplace. This action should

provide a secure source of natural gas at a price significantly lower than alternative sources. While there may be an increase in the price of natural gas over the short term that increase should be modest.

SURFACE MINING

Our most abundant domestic source of energy is coal. We must learn to use more of it, and we must learn to do so in a manner which does not damage the land we inhabit or the air we breathe.

Surface mining is both the most economical and the most environmentally destructive method of extracting coal. The damage caused by surface mining, however, can be repaired and the land restored. I believe it is the responsibility of the mining industry to undertake such restorative action and I believe it must be required of them.

I have proposed legislation to establish reclamation standards which would regulate all surface and underground mining in this country. These standards would be enforced by the States. I call again for enactment of this proposal, for it would enable us to increase the supply of a highly economic fuel while avoiding the severe environmental penalties which we have often paid in the past.

REORGANIZATION OF FEDERAL ENERGY EFFORT

The four energy bills discussed above can and should be passed by the Congress this year. There are three additional measures proposed by the Administration whose early passage is important but not so critical that they require action this year. I would hope that these measures would be near the top of the legislative agenda in the future.

One of these bills provides for reorganization of the Federal energy effort. While energy is one of our Nation's most pressing problems, and while the preservation and effective use of our natural resources is an imperative policy goal, it is presently impossible to administer these related objectives in a coordinated way. Our ability to manage our resources and provide for our needs should not be held hostage to old forms and institutions.

I have noted repeatedly the need for thorough reorganization of the executive branch of the Federal Government. I believe the need for reorganization is especially acute in the natural resource area. I have urged and I urge again the creation of a Department of Energy and Natural Resources to permit us to deal with these questions in a more comprehensive and more effective manner.

I also again ask the Congress to create a new, independent Energy Research and Development Administration so that we can make the very best use of our research and development funds in the future. Our research and development effort could produce the most helpful solutions to the energy problem. For that reason, I recently announced plans to initiate a \$10 billion Federal effort in this field over the next five years. No legislative action is needed by the Congress this year to provide funding, but it will be necessary for the Congress to approve such funding in the years ahead.

Since regulation of atomic energy resources can be better and more fairly performed if it is disengaged from the

question of their development and promotion, I have also included in this reorganization package a separate and independent Nuclear Energy Commission to perform these vital duties.

SITTING OF POWER PLANTS

One of the major energy questions we face in 1973 is whether we can provide sufficient electric power to light our cities, cool and heat our homes, and power our industries in the decades ahead. One of the solutions to that problem lies in the increased use of nuclear energy. It is estimated that by the year 2000 nuclear power can provide nearly half of this country's electrical production.

We now have adequate safeguards to ensure that nuclear power plants are safe and environmentally acceptable, but the way in which we apply those safeguards sometimes causes unreasonable delays in construction. Similarly, protracted delays have been encountered in the siting of our plants that are powered by fossil fuels, which still must provide the majority of our electric generation capacity over the next three decades. Accordingly, I have proposed legislation which would streamline the process for determining the sites of power plants and transmission lines while continuing to provide full protection for public health and for the environment. This legislation has been under study for two years, and I am anxious to get it out of committees and onto the statute books.

SANTA BARBARA ENERGY RESERVE

It is important to the necessary expansion of our domestic energy resources that we make more effective use of the vast oil and gas reserves along our Outer Continental Shelf. That is why I have ordered the Department of the Interior to triple the leasing schedule in this area and have directed the Council on Environmental Quality to study the feasibility of extending Outer Continental Shelf leasing to the waters off our Atlantic Coast and the Gulf of Alaska. I am equally determined, however, that our efforts to expand energy production should not run rough-shod over our valid concern to protect and enhance the natural environment.

I have therefore proposed in the past, and have resubmitted to the Congress this year, legislation to cancel oil leases in the Santa Barbara Channel and to create in that area a National Energy Reserve. Under this legislation, oil from Naval Petroleum Reserve No. 1 in California would be substituted for the oil off Santa Barbara and part of the proceeds from that production would be used to meet the expenses of exploring other potentially vast oil and gas reserves in Naval Petroleum Reserve No. 4 in Alaska. I believe that this legislation would permit us to maintain momentum in exploration and development while at the same time removing the threat of oil spills as a result of the unique geological formations off the Southern California coast.

In view of the present scarcity of fuels, it is important that we act now to draw upon the oil available in the Naval Petroleum Reserve No. 1 (Elk Hills). During the next several days, at my direc-

tion, representatives of the Administration will seek the necessary consultations with members of the Congress in order to increase production of oil from Elk Hills. This increased production should help to meet the fuel needs of the West Coast this winter.

RESTORING AND RENEWING OUR ENVIRONMENT

In my message to the Congress on February 15th of this year, I was able to report that our Nation had moved away from an era of environmental neglect into a new era of restoration and renewal. The 92nd Congress helped in this process by enacting a number of important measures in 1971 and 1972.

Unfortunately, that Congress failed to act upon nineteen of my environmental proposals, and the Administration therefore resubmitted them last winter to the new Congress. While most of these measures still await action, I continue to hope that the Congress will turn its attention to them.

Some say we have been the victim of our own success—that we have passed important legislation in the environmental area and that many are now tempted to rest on these laurels. But such lassitude would be dangerous. There are many areas of environmental concern still to be addressed. Three particularly important matters are national land use policy, the regulation of toxic substances, and the assurance of safe drinking water.

NATIONAL LAND USE POLICY ACT

The management of our lands is an emerging need of the highest priority. I firmly believe that land use policy is, and must remain, a basic responsibility of State and local governments and that the Federal Government should not usurp their functions. Nevertheless, the Federal Government should exercise leadership concerning the land use decisionmaking process, since our land is part of our national heritage and since decisions about land use often have regional and national consequences. The proposals I have made are designed to strike a careful balance between the setting of general standards at the Federal level and specific enforcement at the State and local level.

We first transmitted the proposed National Land Use Policy Act to the Congress in 1971, but there has been no law enacted since then. I am pleased, however, that the Senate has passed legislation incorporating many of the policies I have proposed. This legislation properly delineates the respective roles of the Federal, State and local governments in land use regulation. The Senate bill is deficient, however, in that it imposes an excessive financial burden on the Federal Government. I am hopeful that a responsible compromise can be worked out in the weeks ahead.

TOXIC SUBSTANCES

Because the great quantities of new chemicals now being used by industry pose undefined hazards to human life and the environment, I also asked the Congress again last February for legislation that would set standards for determining whether such chemicals are hazardous.

Such legislation has now passed both Houses of the Congress and is in confer-

ence committee. Although the Congressional version differs somewhat from the proposals the Administration has submitted, this new legislation would take the essential step of providing the Environmental Protection Agency with significant new authorities in this area. I am confident that a reasonable solution will be ironed out in conference, and I urge the Congress to move forward as rapidly as possible.

SAFE DRINKING WATER ACT

Finally, we must take new steps to protect the purity of our drinking water. The Federal Government's role in this process, however, should not be that of direct regulation but rather that of stimulating State and local authorities to ensure that national standards are met. I have asked that the primary monitoring and enforcement responsibilities for such standards be left with the States and localities.

This legislation has passed the Senate and awaits action in the House. While I urge prompt approval of this important new authority for the Environmental Protection Agency, I caution the Congress not to impinge on State and local powers and not to shift the responsibility for financing this program to the Federal Government and away from the users, where it belongs.

HUMAN RESOURCE NEEDS

It is an old adage that people are our most precious resource, but our legislative progress so far this year scarcely reflects that belief. Only a handful of bills has been passed in this important field. There are many other human resource measures proposed by the Administration and now pending before the Congress which deserve prompt consideration.

EDUCATION

As the Congress resumes its work for the fall legislative session, some 50 million young Americans are returning to elementary and secondary school classrooms all across the country. There they will pursue the education which is so important in broadening their horizons for the future and keeping our country progressive and free. Making sure that real educational excellence is available to all of those children must rank high on any list of human resource priorities for our Nation.

Constructive cooperation between the Administration and the Congress has already produced notable gains on this front over the past several years. The dismantling of dual school systems in the South is now virtually complete and the task of remedying school discrimination elsewhere in the country is proceeding harmoniously with forced busing being kept to a minimum. The National Institute of Education, which was created at my request by the Congress in 1972, is becoming the center for educational reform and innovation we hoped it could be. Total Federal outlays for education will reach \$13.8 billion under my 1974 budget proposals—an increase of \$4.8 billion over the 1969 level.

Of crucial importance now, however, is whether those funds are being channeled in such a way as to purchase maximum educational benefit for the students they are intended to help. The ex-

perience of nearly a decade since the Federal Government shouldered a major school aid role under the Elementary and Secondary Education Act of 1965 indicates that these funds are not being used as effectively and equitably as they should be. Elementary and secondary education grant programs have proved so rigid, narrow, fragmented and encumbered with red tape that reform, consolidation, greater equity and simplification are now essential.

It was to meet this need that I first asked the Congress early in 1971 to shift most Federal education programs from a categorical grant basis to a special revenue sharing approach. The need is still unmet as another school year starts. The best remedy is contained in the principles of the education legislation which the Administration proposed in 1971 and again in March of this year. The principles are more important than the question of how the bill is titled or who gets the credit.

I realize that the Better Schools Act has encountered difficulties in the Congress. I believe, however, that an acceptable proposal can be developed, and I am ready to work closely with the Congress to see that this goal is accomplished.

It will take political courage for the House and Senate to reject proposals which would perpetuate the more than 30 categorical grant programs perennially popular with legislators. But these programs are so tangled that we must move toward streamlining them and toward transferring key decision-making power out of the Washington bureaucracy back to the State and local levels where it can be exercised more intelligently. But if the Congress will keep its attention focused on the question of what best serves our school children, I believe it will recognize the need for prompt action.

Another area of renewed interest this fall is busing. My position is well known. I am opposed to compulsory busing for the purpose of achieving racial balance in our schools. I continue to believe in the neighborhood school—in the right of children to attend schools near their homes with friends who live near them. I continue to believe that busing is an unsatisfactory remedy for the inequities and inequalities of educational opportunity that exist in our country, tragic as those discrepancies are. We have been working to end those discrepancies, and we will continue to do so. But we should also place effective and reasonable curbs on busing in a way which would aid rather than challenge the courts. Last year I proposed legislation designed to achieve this goal. I will continue to work with the Congress in an effort to enact legislation which will end involuntary busing for purposes of racial balance and concentrate our effort on true opportunity in education.

WELFARE REFORM

Another critical need in the human resource area is to overhaul our welfare system. Earlier this year I directed that vigorous steps be taken to strengthen the management of the welfare program through administrative measures and legislative proposals. I have further directed that the study of legislative pro-

posals include a review not only of the basic welfare program but also its relationship to other programs designed to assist low-income families, such as food stamps, public housing and medicaid. That study is now going forward, and I will be reviewing its results in the weeks ahead.

MANPOWER TRAINING AND RELATED LEGISLATION

A second basic concern of public policy in the area of human resources involves the effort to guarantee to all our people the opportunity and satisfaction of working at a good job for a good wage. The Administration and the Congress have worked together effectively to foster the economic expansion which has now brought our total employment to record levels and has raised real wages significantly. In addition, we have taken important steps to improve the quality of the work environment. These steps have included passage of the landmark Occupational Safety and Health Act of 1970 and a major overhaul of the unemployment insurance system.

But much remains to be done, especially for those workers on the fringes of the labor force whose low skills or other disadvantages leave them "on the outside looking in." Massive Federal aid in the manpower training field, as in education, dates from the 1960's—and here, too, it has become clear from the perspective of the 1970's that reform must be the order of the day. A special revenue sharing approach permitting States and communities to tailor their own programs to local needs will get better results for the dollar than those achieved by inflexible categorical grant programs designed in Washington.

In the face of Congressional rejection of my proposals in this area in 1971 and 1972, I directed the Secretary of Labor last January to implement administratively the principles of manpower revenue sharing, in so far as possible under existing law. That effort is now going forward, but I am certainly prepared to work with the Congress to achieve this same goal through legislation.

Working men and women will also be looking to the Congress this fall for action on three other bills which the Administration is requesting in their interest:

—*The Job Security Assistance Act*, which would establish minimum benefit levels for State unemployment compensation programs and extend coverage to farm workers;

—*The Vocational Rehabilitation Act* amendments, which would extend and improve job training programs for the handicapped, taking the place of an earlier measure whose severe over-spending provisions and program distortions necessitated my veto in March; and

—A constructive measure that would raise the minimum wage in light of the cost of living increases since the last such adjustment in 1968. Such legislation is essential to replace an earlier minimum wage bill which I felt compelled to veto last week because it would have hurt low-income workers and would have added to inflationary pressures in the economy.

PENSION REFORM

For most Americans, there are now two principal ways of providing for retirement. The first is the social security system, which is the largest system of its kind in the world and one of the most effective. The second is the system of private pension plans. Those plans now cover some 30 million workers and pay benefits to another 6 million retired persons.

As private pension plans have developed, certain flaws have also become apparent. The Federal Government should now act to help correct them. I first asked the Congress to enact pension reform legislation in 1971 and, after 16 months of additional study and hearings, I submitted two new bills to the Congress in the spring of this year.

One of these bills, the Retirement Benefits Tax Act, would give each worker greater rights in his pension plan and require that more money be put into it so that he will be more fully protected if he leaves his job before retirement. Unlike some of the alternative bills, it would also maintain strong encouragement for other employers to set up pension plans—an important provision since about half of the total private labor force is not covered at the present time.

The second bill, the Employee Benefits Protection Act, would establish tighter fiduciary standards for the administration of the more than \$160 billion now invested in private pension and welfare funds. The unscrupulous activity which has sometimes characterized the administration of these funds in the past convinces me that the Federal Government should play a watchdog role.

I am aware that several other pension proposals have support on Capitol Hill. A reasonable compromise seems in order, and my Administration is anxious to work with the Congress to achieve agreement in the months ahead.

HEALTH LEGISLATION

In the field of health care and medical protection, the Administration remains committed to a broad national health strategy which will eliminate financial barriers to needed medical help for every American family and will open to all our people the promise of longer, fuller lives with increasing freedom from disease. We have nearly doubled Federal outlays for health since I took office, and we have been mobilizing to conquer cancer and to fight other particularly cruel enemies such as heart disease, and drug abuse.

My number one priority in this field over the long term remains the building of a balanced health insurance partnership in which the public and private sectors join to bring the costs of quality care within every family's reach. However, the present crowded calendars of key Congressional committees make it seem more likely to me that the real push for this reform must come in 1974. We will move forward this fall with the work needed for the introduction of legislation at an early date.

An attainable goal for these final months of 1973 is passage of the Administration's proposed Health Maintenance Organization Assistance Act, which would provide Federal money to demonstrate the promising innovation

of group medical centers where quality care can be maximized and costs minimized. The Senate has passed a bill to further the HMO concept. That bill, however, calls for a full-scale development effort rather than a limited demonstration program. A national development effort would require funding levels far beyond what is needed or what we can afford. The House is presently developing a bill which would be a fiscally responsible demonstration effort. If such a bill is passed by the full Congress, I will support it.

LEGAL SERVICES CORPORATION

The Administration will also work closely with the Congress in the weeks ahead to obtain final passage of our bill to establish a Legal Services Corporation which would provide the poor with quality legal representation, would be free from political pressures, and would include safeguards to ensure its operation in a responsible manner. Legal Services legislation has passed the House. Nothing should now stand in the way of prompt Senate action.

INDIAN LEGISLATION

The steadfast policy of this Administration is to advance the opportunities of American Indians for self-determination without bringing an end to the special Federal relationship with recognized Indian tribes. To that end, there are now six major pieces of legislation pending in the Congress which I proposed as long ago as July of 1970. This legislation would help to foster greater self-determination for the Indians, to expand their business opportunities, and to provide better protection of their natural resources. Many Indian leaders have indicated strong support for this legislation, and I would hope that the Congress will now act on it with the speed that it so clearly deserves.

PENSIONS FOR VETERANS

This Administration strongly believes that the Nation owes a special debt to its veterans, and we have tried to fulfill that obligation by supporting a number of improvements in veterans legislation. During the past four years, for instance, I have twice signed bills increasing the educational benefits for veterans and, during the current year, I have signed into law bills covering health care and cemetery benefits. All of those bills were the product of close cooperation between the Congress and the Administration.

The Congress is currently considering new pension legislation for veterans. With certain modifications, this bill would be a good first step toward the full reform which I believe to be necessary and which should be considered during the early days of the next session of the Congress.

CONSUMER AFFAIRS

Early in 1971, after the Congress had failed to act on my proposal to create an Office of Consumer Affairs, I established such an office by Executive order. The office is now a part of the Department of Health, Education and Welfare. In addition to playing an important role in forming Administration policy on consumer affairs and helping to educate the public on better ways to make consumer choices, the office seeks to represent con-

sumer interests in testimony before the Congress and acts as a general ombudsman for the individual consumer.

I am convinced that we can do a good job for the consumer without excessive Federal intervention which could destroy the freedom of the American marketplace. However, I believe that more should be done in this field. To that end, I outlined this spring appropriate legislative specifications for establishing a separate Consumer Protection Agency and I am prepared to work further with the Congress on this issue.

VOLUNTEERISM

More than two years ago, in order to advance our tradition of voluntary action, I created a new Federal agency called ACTION. That agency is now responsible for directing federally funded domestic volunteer programs as well as the Peace Corps. ACTION has now proved to be an effective way of encouraging greater voluntary action here and abroad, and I am now anxious to place it on a more permanent footing. Accordingly, I ask that the Congress act this fall to provide legislative authority for this agency. Appropriate language for this legislation was agreed to prior to the August recess by a bipartisan group of sponsors in the House and Senate and by the Administration. I hope that this legislation will soon be sent to me for signature.

BUILDING BETTER COMMUNITIES

As we look back over the past decade, we can take pride in the fact that we have substantially slowed the processes of social upheaval in our cities. Yet by any yardstick, there is a great deal of work ahead if we are to make life in our communities as healthy and enriching as it should be.

It would be reassuring to believe that the expensive Federal Government programs of the past have made great inroads on our urban problems, but that is clearly not the case. Many of the programs designed for this purpose, such as urban renewal and the Model Cities experiment, have not done the job that was expected of them and often have had a counterproductive impact. Consequently, I have recommended they be scrapped. We have learned from experience that we cannot cure our social ills simply by throwing money at them or dictating prescriptions from Washington.

What we are seeking now is a set of new approaches and a set of new programs: we are seeking change that works. My Administration has proposed a series of initiatives which would guide us along a more productive path. I have been keenly disappointed that some Members of the Congress seem so interested in continuing programs that are proven failures that we are unable to gain a full hearing for new approaches that clearly deserve a chance.

So far, the only significant legislative breakthrough this year has been the enactment of a modified highway bill, permitting some of the money in the Highway Trust Fund to be used for vitally needed mass transit systems. This is a concept which I vigorously advocated and I signed it into law with a strong sense of pride and hope. Other Administration initiatives, however, still lan-

guish on Capitol Hill. To break the present stalemate, I am prepared to accept something less than the full legislative measures I have proposed. I would hope that in the same spirit some Members of the Congress would drop their insistence upon continuing the programs which have produced such limited social returns.

THE BETTER COMMUNITIES ACT

The Better Communities Act is the centerpiece of the legislative package which my Administration has sent to the Congress this year in the community development field. Embodied in this bill is a fundamentally different approach to the problems of community life. If it were passed, the Federal Government would continue to funnel money into our communities, but essential decisions on how that money was to be spent would no longer be made in Washington but at the local level. Five categorical grant programs and two loan programs which have proven to be inflexible and fragmented would be replaced and local governments would no longer be hamstrung by Washington's red tape.

I am aware that action on this bill has been delayed partly because some Members of the Congress wish to consider the Administration's housing proposals simultaneously. As I indicated in March, I ordered an intensive six-month study of Government housing policies to be conducted before I submitted such proposals. That study has just been completed and I plan to submit shortly a new set of housing policy recommendations to the Congress. When those recommendations arrive, I am hopeful that the Congress will move swiftly on both the Better Communities Act and the housing requests. Final action in 1973 may be an unrealistic goal, but I would certainly hope that we might have new laws on the books by early spring in 1974.

Finally, it is important that the Congress pass the simple one-year extension of the FHA mortgage insurance programs which will expire October 1. Last week the House of Representatives took constructive action by refusing to act on an extension bill which contained several undesirable "Christmas tree" amendments. The Congress should now act swiftly and responsibly in order to prevent a repeat of the month-long gap in FHA insurance activity which occurred early this summer.

RAILROADS

There can be no doubt that the plight of the rail lines in the 17 States of the Northeast and Midwest presents an immediate and far-reaching transportation problem. Six major railroad lines in this area are now bankrupt and shutdowns are threatened. The danger extends across the country because railroads in other parts of the Nation still use the bankrupt lines. A failure of any significant part of our Nation's railroad system would impair our ability to move freight efficiently to all parts of our Nation.

The solution proposed by the Administration would provide for the restructuring of the railroad system so that new, privately-owned and economically viable rail systems could be developed from those now in bankruptcy. The Federal

Government would provide some \$125 million over an 18-month period to assist in this process. While we are always open to suggestions for improvement in our proposal, I feel that some of the alternatives which have been aired in the Congress—especially those which would merely postpone action or would saddle the Federal Government with a heavy financial burden, or could lead to quasi-nationalization—are beyond the pale of acceptability. Present bankruptcy proceedings and the possibility of liquidation make it imperative that the Congress act promptly to meet the emerging crisis.

I will soon submit to the Congress my Transportation Improvement Act of 1973. This legislation is designed to address some of the outmoded and excessively restrictive regulatory procedures which affect the entire railroad industry. The steps recommended are critical to creating a healthy system of railroads for our Nation—a matter of increased urgency as we face environmental and energy problems. I urge prompt Congressional action on this important legislation.

DISASTER PREPAREDNESS AND RELIEF

This Administration has had ample opportunity to test our Federal programs for dealing with natural disasters. Since taking office in 1969, I have had to declare 147 major disasters in 42 States and 3 Territories. The year 1972—punctuated by Hurricane Agnes—proved to be a record-setting year in this respect: there were 48 major disasters, accounting in part for the food shortages we have had in 1973.

As a result of these experiences, I am convinced that we can do a better job in preparing for disasters and in providing assistance to those who are hardest hit. I have proposed two major pieces of legislation designed to insure that 1973 will mark a turning point in the story of our disaster programs.

The first of these measures is the proposed Disaster Preparedness and Assistance Act. This bill is based upon a major recent study of all disaster relief activities of the Federal Government. It is designed to provide badly needed emphasis upon preventive measures and to encourage the use of insurance before disasters strike. It would increase the role of State and local officials in determining how Federal money would be spent in assisting disaster-stricken communities—and it would provide for automatic release of Federal funds in the case of major disasters. Red tape, bureaucratic delays, and Federal interference would be substantially reduced, while Federal assistance would be provided more rapidly. The bill also includes generous grant features for those disaster victims unable to repay Government loans while continuing grants to help communities restore their public facilities.

To date, this legislation, so vital to our efforts to mitigate disaster damage, has received only one perfunctory hearing in the Congress. It deserves more serious consideration.

The second major Administration initiative in this area is the proposed Flood Disaster Protection Act. Flood insurance is a key part of any disaster assistance program. This bill would expand the

flood insurance program by increasing insurance coverage from \$6 to \$10 billion. It would also require participation in the flood insurance program by communities that are known to be flood prone, so that residents of these communities would have more adequate protection and would help to bear a reasonable share of the cost.

The Congress has moved rapidly on this bill; but unfortunately, in floor action this past week, the House added a number of amendments that would seriously hamstring the administration of the program and would badly erode its effectiveness. I hope that we can iron out our differences on these crippling amendments in a spirit of constructive compromise that preserves the effectiveness of the bill for those who need it so badly.

SELF-GOVERNMENT FOR THE DISTRICT OF COLUMBIA

In 1969 I first proposed a series of actions intended to bring about an orderly transfer of political power to the people of the District of Columbia. I called for a Constitutional Amendment giving the District at least one representative in the House and such other additional representation as the Congress may approve. I proposed, and Congress enacted, legislation providing for an interim non-voting Congressional delegate and for the creation of a Commission on the Organization of the Government of the District of Columbia, the so-called Nelsen Commission.

The Nelsen Commission's recommendations deserve careful consideration. If enacted, these proposals would greatly strengthen the capability and expand the authority of the City's government and moderate the Federal constraints over its operation. Once again, I urge rapid action by the Congress.

As the American Bicentennial dawns, I pledge the Administration to work receptively and cooperatively in this area to achieve true and effective self-government for the District of Columbia.

FIGHTING CRIME AND DRUG ABUSE

In recent years, America's peace officers, with the assistance and encouragement of Federal law enforcement agencies and with the support of far-sighted legislation passed by the Congress, have made commendable inroads against crime. After 17 years of continuous and sometimes shocking increases in the rate of crime, the nationwide rate of serious crime went down in 1972.

But this progress must not be taken as evidence that we can now relent in this struggle. Rather, we must redouble our efforts to restore law and order to America, whether it be in the boardrooms of our corporations, in the halls of our government, or on our city streets. We must do all we can to make the present moment a decisive turning point so that our communities will once again be safe. Three of my legislative proposals are designed to do just that: a bill to modernize and reform the Federal Criminal Code; a heroin trafficking bill to crack down on drug pushers; and a bill to restore the death penalty for certain of the most serious Federal offenses.

CRIMINAL CODE REFORM

There is a compelling need for greater clarity and consistency in our criminal laws, especially in those which fall within the Federal ambit. The Federal Criminal Code, which dates back to 1790, has never been thoroughly revised. It is no longer a fully effective instrument for the administration of criminal justice—just as the national transport systems of 1790 would no longer be adequate to the demands of 20th century America.

Since 1966, a number of public and private studies have been directed to the development of necessary reforms in the Federal Criminal Code. It is time that such reforms be undertaken. I have submitted a sweeping proposal for reform, based upon a five-year study by a bipartisan national commission. This measure would eliminate a number of inadequate, obsolete, or frivolous statutes from the Code and would re-order other statutes into a rational, integrated Code responsive to the needs of our modern society.

Although extensive consideration has already been given to this matter by public and private commissioners, I realize that a prudent Congress will still wish to study this matter carefully. Senator McClellan has also introduced his own proposals for comprehensive Code reform. Certainly the best parts of each set of proposals can be joined as the legislative process goes forward. Fortunately, hearings have already begun in the Senate and I trust that both Houses will move with appropriate dispatch on this complex but vital endeavor.

HEROIN TRAFFICKING ACT

In spite of our encouraging progress in eliminating the scourge of drug abuse in America, we still have a long way to go in this vital work.

The center of gravity for America's drug problem rests in the area of "hard drugs"—with heroin at the top of the list. Heroin trafficking is involved with the entire spectrum of criminality, ranging from international organized crime to muggings on the street. It is one of the most remunerative areas of criminal activity and we will never be able to cope with it effectively until the sanctions we can bring to bear against it are as severe as its profits are attractive.

Recent studies have shown that tens of thousands of those arrested on narcotics charges are put right back on the street for periods ranging up to a year and more as they successfully play for time against the courts. More alarming still is the fact that many thousands of those convicted on narcotics charges are never sent to jail. Such facts mean that the penalties for hard drug trafficking are an ineffective deterrent when compared with the potential gains from this multibillion dollar criminal activity.

The conclusion is simple. We must have laws that will enable us to take heroin traffickers off the streets. I have submitted a proposal which would do precisely that. It would provide tough new penalties for heroin traffickers including minimum mandatory prison sentences. It would also allow a judge to consider the danger to the community before releasing arrested heroin traffickers on bail.

Heroin traffic is a clear and present danger, the pernicious effects of which all reasonable men can agree upon. While many of the proposals which I have placed before the Congress may require extended consideration, the need for cracking down on the heroin traffic cannot reasonably be supposed to be among them. I ask therefore that the immediate attention of the Congress be given to legislation which would help us eliminate this market for misery.

CAPITAL PUNISHMENT

The death penalty is not a sanction to be employed loosely or considered lightly, but neither is it to be ignored as a fitting penalty, in exceptional circumstances, for the purpose of preventing or deterring crime. I wish to reaffirm my conviction that the death penalty should be restored for treason, assassination, acts of sabotage and espionage, which are particularly serious, and for violations of selected Federal laws in which death results.

I am deeply troubled by the fact that our courts are often now deprived of a credible sanction in their efforts against violent crime while prospective criminals are provided with the comfort and encouragement of knowing that they will often suffer only limited and mitigable consequences to themselves. I ask that the Congress continue its efforts to correct this discrepancy.

REFORM OF CAMPAIGN PRACTICES

No subject over the last few months has so stirred public comment and reflection as the question of campaign practices.

For nearly four months now, the Congress has had before it my proposal to establish a Non-Partisan Commission on Federal Election Reform so that we could overhaul our campaign practices in a comprehensive, sound and expeditious manner. In light of the great interest of the public and the Congress in such reform, I am at a loss to understand why only the Senate has acted on this request.

In order to have made any reform effective for the 1974 elections, the Commission should have been established and prepared to submit a report by December 1, as I initially proposed. Unfortunately, this opportunity appears to be slipping by and the American public might well ask whether the interest in reform is restricted to calling for changes rather than making changes.

While the passage of time has already made it unlikely that reforms which spring from the Commission's study could be made effective prior to the 1974 Congressional elections, it is not too late for the Congress to move forward to establish the Commission.

PREPARING FOR THE BICENTENNIAL

America is virtually on the eve of its Bicentennial anniversary. Yet a great deal of preparation remains to be accomplished in a relatively short time if our celebration of two hundred years of liberty is to be equal to the importance of the occasion. To this end, I have proposed the creation of an American Revolution Bicentennial Administration to continue and expand upon the work of the present American Revolution Bicentennial Commission. The House has passed a bill in this area and the Senate is moving to-

ward final consideration of its version of the bill.

We are moving rapidly toward a fixed point in time, and we must act swiftly if all agencies of the Federal Government, along with State, local, and private institutions, are to be given the maximum opportunity to prepare properly for the Bicentennial year.

Since the expanded resources of the Arts and Humanities Endowments would be designed in part to aid in these preparations, I am also confident that the House and Senate conferees will soon complete needed action on the authorization bill for these two institutions. It is now widely recognized that both of the endowments are playing an effective role in enriching our cultural and intellectual life, and they continue to deserve our strong support.

METRIC CONVERSION

Americans cherish tradition and our own way of doing things. Having been acculturated from childhood to the concepts of an inch, a mile, or a pound, we are understandably nonplussed when we consider the notion of a centimeter, a kilometer, a gram or a kilo. However, when we realize that the rest of the world is equally confused by our system of measurement, we must conclude, however sadly, that we are the ones who are out of step.

In a world of integrated commerce and increasing personal exchange, it is only prudent for us to adjust our own conceptions and devices for measuring and delineating quantity.

I have recommended to the Congress that it pass legislation to convert America to the metric system. This can be done in a reasonable manner, one which is not abrupt or disconcerting. I am pleased to note that the Administration's proposal is presently before the appropriate House subcommittee. I ask that the Senate give equally expeditious consideration to effecting this necessary change.

REORGANIZATION AUTHORITY

The authority of the President to submit Reorganization Plans to the Congress lapsed in April of this year and has not yet been renewed.

This authority permits the President to organize programs and agencies in order to achieve the most effective and efficient performance. It is, therefore, an important executive management tool which provides flexibility and increased capacity to respond to changing needs.

This authority has been made available to every President for more than 25 years. It is essential that it be renewed with great dispatch.

KEEPING THE PEACE

For the first time in more than a decade, America is at peace. Now we must learn how to keep that peace—a task that is at least as demanding and in many ways even more subtle than the struggle to end a war.

There is always a temptation after war to enter into a period of withdrawal and isolation. But surely we have learned from past lessons of precipitate disarmament that this temptation must be resisted. And surely we have also learned that our progress in securing peace is due in large measure to our continued military strength and to the steadfast,

responsible role we have played in the affairs of our world.

DEFENSE SPENDING

In recent years, it has been fashionable to suggest that whatever we want in the way of extra programs at home could be painlessly financed by lopping 5 or 10 or 20 billion dollars off the defense budget. This approach is worse than foolhardy; it is suicidal. We could have the finest array of domestic programs in the world, and they would mean nothing if we lost our freedom or if, because of our weakness, we were plunged into the abyss of nuclear war.

The world's hope for peace depends on America's strength—it depends absolutely on our never falling into the position of being the world's second strongest nation in the world.

For years now we have been engaged in a long, painstaking process of negotiating mutual limits on strategic nuclear arms. Historic agreements have already been reached and others are in prospect. Talks are also going forward this year aimed at a mutual and balanced reduction of forces in Europe. But the point of all these negotiations is this: if peace is to be preserved the limitations and the reductions must be mutual. What one side is willing to give up for free, the other side will not bargain for.

If America's peace and America's freedom are worth preserving, then they are worth the cost of whatever level of military strength it takes to preserve them. We must not yield to the folly of breaching that level and so undermining our hopes and the world's hopes for a peaceful future.

Although my military budget—measured in constant dollars—is down by almost one-third since 1968, the Congress is now threatening further defense cuts which would be the largest since 1949. To take such unilateral action—without exacting similar concessions from our adversaries—could undermine the chances for further mutual arms limitations or reductions. I will therefore actively oppose these cuts.

The arms limitations agreement signed with the Soviet Union last year has at last halted the rapid growth in the numbers of strategic weapons. Despite this concrete achievement, much needs to be done to ensure continued stability and to support our negotiation of a permanent strategic arms agreement. A vigorous research and development program is essential to provide vital insurance that no adversary will ever gain a decisive advantage through technological breakthrough and that massive deployment expenditures will therefore not become necessary. Yet the Congress is in the process of slashing research and development funding below minimum prudent levels, including elimination of our cruise missile and air defense programs. The Trident and B-1 programs, which are critical to maintaining a reliable deterrent into the next decade, are also facing proposals to cut them to the bone.

On top of this, the Senate has approved a staggering and unacceptable cut of 156,000 men in our military manpower. Such action would force us to reduce the number of ships in our Navy while the Soviet Union continues an un-

precedented naval buildup and to reduce the size of our Army and Air Force while the Soviet Union and the Chinese continue to maintain far larger forces.

In addition to these cuts, there is also a major Senate proposal requiring substantial unilateral troop withdrawals from Europe, a mistake that could begin a serious unraveling of the NATO alliance. Negotiations for mutual and balanced force reductions begin on October 30. On the very eve of negotiations, the troop cuts in Europe and the reduction in military manpower would destroy our chances of reaching an agreement with the Warsaw Pact countries to reduce troop levels in Europe on a mutual basis. If the Congress were to succeed in making these proposed cuts, the United States would be making far-reaching concessions even before the talks begin.

Cuts in other defense programs are equally unacceptable. It is illogical to cut America's capabilities at the very time the Soviet Union increases hers. And it would be difficult to stabilize delicate situations in the Middle East and Asia if the Congress removes the influential tools which have made stability possible.

FOREIGN ASSISTANCE ACT

Another matter of prime concern to me is our commitment to a sound program of bilateral and multilateral foreign aid. Last spring I sent to the Congress reasonable requests for our economic and military assistance programs. These programs represent a central element in America's ability to work with her allies to maintain peace and stability in the world. Unfortunately, the Congress has not treated these requests favorably.

The House has already cut about 25 percent from the military aid program and the Senate has cut it by one-half. Not only have extraordinary cuts been made in the funding, but restrictive amendments have been added in committee and others may be suggested on the floor. I cannot stand by while these crucial programs are gutted in haste and reaction.

Current foreign aid programs are being funded through a continuing resolution which ends on September 30. This approach is unsatisfactory, especially in light of demands resulting from North Vietnamese truce violations in Cambodia. Yet the Congress continues not only to provide smaller dollar amounts but also to make unreasonable requests for access to sensitive information and impose counterproductive conditions on specific programs. Such demands are unacceptable; they would badly compromise our ability to maintain security around the world.

I intend to make every effort to increase the funding for fiscal year 1974 security assistance requirements. I shall also strongly resist efforts by the Congress to impose unreasonable demands upon necessary foreign policy prerogatives of the executive branch. A spirit of bipartisan cooperation provided the steel which saw America through the Cold War and then through Vietnam. We must not jeopardize the great potential for peaceful progress in the post-Vietnam era by losing that strong bipartisan spirit.

To build a truly durable structure of peace, our progress in reforming the world's trade and monetary systems must be accompanied by efforts to help the poorer countries share more equitably in the world's growing prosperity. To this end, I ask the Congress to support our fair share of contributions to the multilateral development banks—both the proposed contributions now pending in the Congress and other proposals about which I am currently consulting with the Congress and which will be formally submitted in the near future. Our bilateral assistance programs are also an essential part of our effort to stimulate world development and I urge the Congress to give them full support.

All these efforts represent short-range investments in peace and progress which are of enormous long-range importance. To try to save a few dollars on these programs today could cost us far more tomorrow.

CONCLUSION

With the Congress, the Administration and the people working together during the coming weeks, we can achieve many of the goals described in this message. And we will work together most effectively if we remember that our ultimate responsibility is not to one political party, nor to one philosophical position, nor even to one branch of the Government. Our ultimate responsibility is to the people—and our deliberations must always be guided by their best interests.

Inevitably, we will have different opinions about what those interests demand. But if we proceed in a spirit of constructive partnership, our varying perspectives can be a source of greater creativity rather than a cause of deadlock.

We already know that the year 1973 will be recalled in history books as the year in which we ended the longest war in American history. Let us conduct ourselves in the next four months so that 1973 will also be remembered as the time in which we began to turn the blessings of peace into a better life for all.

RICHARD NIXON.

THE WHITE HOUSE, September 10, 1973.

PROCEEDINGS AGAINST GEORGE GORDON LIDDY

MR. NEDZI. Mr. Speaker, I rise to a question of the privilege of the House, and, by direction of the Committee on Armed Services, I submit a privileged report (H. Rept. No. 93-453).

The Clerk read as follows:

REPORT CITING GEORGE GORDON LIDDY

INTRODUCTION

On Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence of the House Committee on Armed Services, Mr. George Gordon Liddy, who was called as a witness, pursuant to a Writ of Habeas Corpus, refused to be sworn prior to offering any testimony or claiming his privilege under the Fifth Amendment. A quorum being present, the subcommittee voted to report the matter to the full House Committee on Armed Services with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress. [See Appendix 1.] On July 26, 1973 the House Committee on Armed Services met to receive the report of the Special Subcommittee on Intelligence with regard to the refusal of Mr. Liddy to be

sworn. On July 31, 1973, the full committee, a quorum being present, on a record vote of 33-0, recommended the adoption of a resolution as follows:

"RESOLUTION"

"Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Armed Services of the House of Representatives as to the refusal of George Gordon Liddy to be sworn or to take affirmation to testify before a duly authorized subcommittee of the said Committee on Armed Services on July 20, 1973, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said George Gordon Liddy may be proceeded against in the manner and form provided by law."

[See Appendix 2.]

BACKGROUND

At the time of the subcommittee hearings, Mr. Liddy was in confinement in the District of Columbia Jail as the result of his conviction on the Watergate breakin. Accordingly, the subcommittee petitioned Chief Judge John J. Sirica of the United States District Court for a Writ of Habeas Corpus Ad Testificandum as the only means of obtaining Mr. Liddy's presence before the subcommittee. In his discretion Judge Sirica signed that petition and an order was delivered to the United States Marshal for Mr. Liddy's appearance before the subcommittee on July 20, 1973. [See Appendix 1, pp. 16-17.] Mr. Liddy appeared as ordered.

In his appearance Mr. Liddy was asked to rise and take the oath. He refused to take the oath as a witness. Subsequently, his counsel presented an extensive brief after which Mr. Liddy again refused to take the oath. The witness claimed he had the absolute right under the Fifth Amendment to remain completely silent with regard to any offering before the subcommittee. He sought to establish that contention based upon his current conviction on the Watergate breakin which is under appeal, and the possibility of future indictments being brought against him. He further argued a Sixth Amendment right to avoid what he claims to be prejudicial publicity in the media should he claim his Fifth Amendment rights. Mr. Liddy agreed that his refusal to be sworn was not based on any religious grounds.

AUTHORITY

The Special Subcommittee on Intelligence is a duly constituted subcommittee of the House Committee on Armed Services pursuant to House Resolution 185, 93d Congress, and the appointment made during the organization meeting of the Committee on Armed Services on February 27, 1973. [See Appendix 1, pp. 11-16.] In addition, the chairman of the subcommittee was given an order directing an inquiry into any CIA involvement in Watergate-Ellsberg matters. The subcommittee recommended those hearings on May 11, 1973, and in sixteen sessions since that date has had before it some twenty-four witnesses bearing on the subject of the inquiry. Prior to his appearance on July 20, 1973, Mr. Liddy, through his attorney, was advised by telephone of the purpose of the investigation and was asked to acknowledge that information by letter. That was done by Mr. Liddy's attorney on June 20, 1973. [See Appendix 1, pp. 17-18.] As indicated above, Mr. Liddy was properly before the subcommittee on a valid, duly executed Writ of Habeas Corpus Ad Testificandum [See Appendix 1, p. 16.]

CONCLUSION

The position of the committee is that all substantive and procedural legal prerequisites have been satisfied to date and that the House of Representatives should adopt the resolution to refer the matter to the appropriate U.S. Attorney. Title 2, United States Code, Sections 192 and 194 provide the neces-

sary vehicles for taking this action. Section 192 provides the basis for indictment should a witness before either House of Congress refuse to answer any question pertinent to the inquiry. Section 194 provides the vehicle for certifying such a result to the appropriate U.S. Attorney. The central question is whether failure to take the oath constitutes a refusal to give testimony. We believe it does.

Accordingly, it is the position of the committee that the proceedings to date are in order and we recommend that the House adopt the resolution to report the fact of the refusal of George Gordon Liddy to be sworn to testify at a meeting of the Special Subcommittee on Intelligence on July 20, 1973 together with all the facts in connection therewith to the end that he may be proceeded against as provided by law.

A memorandum of law is contained in Appendix 3.

APPENDIX I—SPECIAL SUBCOMMITTEE ON INTELLIGENCE HEARINGS, ON JULY 20, 1973, IN CONNECTION WITH THE CIA-WATERGATE-ELLSBERG MATTER. WITNESS: GEORGE GORDON LIDDY

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Friday, July 20, 1973.

The subcommittee met, pursuant to recess, at 10:35 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi, chairman of the subcommittee, presiding. Also present were Mr. Hébert (chairman of the House Committee on Armed Services), Mr. Bray, Mr. Price, and Mr. Arends, members of the subcommittee; and Mr. Slatinshek and Mr. Hogan, counsel to the committee.

Mr. NEDZI. The subcommittee will please come to order.

This morning we are continuing our hearings on the CIA-Watergate-Ellsberg matter, and we have called as a witness Mr. George Gordon Liddy, formerly associated with the White House and the Committee for the Re-Election of the President.

With Mr. Liddy is his attorney, Mr. Peter L. Maroulis.

Mr. Liddy, will you rise and take the oath?

Do you solemnly swear that the testimony you are about to give in this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LIDDY. Mr. Chairman, with all due respect to you personally and to the body of the Congress, for reasons which will be explained by my counsel I respectfully decline to take the oath as a witness.

Mr. NEDZI. The committee will hear your counsel.

Mr. MAROULIS. Mr. Chairman, I am Peter L. Maroulis. I am an attorney. My office is 11 Cannon Street, Poughkeepsie, N.Y.

I have an argument on behalf of my client that deals primarily with the fifth amendment; and the best way I can explain my position is to capsulize it by saying that my client was indicted, tried, convicted, and has an appeal pending.

At his trial he had a right not to take the stand. At retrial he will have that same right, if we are successful in our appeal.

The basis for my position regarding Mr. Liddy's refusal to take the oath is historical. With the indulgence of the subcommittee, it will take me a few minutes to explain it. May I proceed?

Mr. NEDZI. Please proceed.

Mr. MAROULIS. When the Constitution-makers drew up the fifth amendment, they were not articulating a privilege bestowed on the individual by the State; rather, they were stating a right of the individual which was founded in a thousand years of common law history, and which would thenceforth be formally protected and guaranteed in this Nation by the Constitution.

The first clause of the fifth amendment states: "No person shall be held to answer

for a capital, or otherwise infamous, crime, unless on a presentment or indictment of a Grand Jury" * * * In this clause is seated that very basis of our legal system, which is accusatorial rather than inquisitorial. No man is bound to accuse himself.

Initially, England followed the ancient Germanic adversary procedure for determining innocence or guilt. Upon accusation proof of innocence would be established three ways: (1) Ordeal, wherein the accused would be miraculously untouched if innocent; (2) compurgation, wherein friends or kindred of the accused and the accused himself would swear to his innocence; (3) trial by battle, wherein the accused would be victorious if innocent. These irrational methods came to be replaced in the 800's and thereafter by an accusational system on the part of the state, and an inquisitorial system on the part of the church.

From the 13th century to the end of the 17th century there was continual opposition to the inquisitorial method. It was a struggle between common law and Romish procedure, the common law being basically accusatorial and the Roman law being inquisitorial.

In the 12th century Henry II extended the old Frankish system of inquiry by neighbors, which is the beginning of our grand and petit juries. At this time the accused had the Germanic right to the oath of purgation, or the oath of innocence, whereby he showed his innocence with compurgators.

In 1215 King John signed the Magna Carta, articles 38 and 39 of which say:

"No. 38. No bailiff from henceforth shall put any man to his law upon his own bare saying, without credible witnesses to prove it.

"No. 39. No freeman shall be taken or imprisoned, or disseised, or outlawed, or banished, or any ways destroyed, nor will we pass upon him, nor will we send upon him unless by the lawful judgement of his peers, or by the law of the land."

It would appear that these two articles articulate in writing for the first time the requirement of presentment which appears in almost every statute pertaining to legal case procedure during the next three centuries, and which finally evolved into the first clause of the fifth amendment. Circuit Justice Wisdom, speaking for the majority, in *De Luna v. United States* (308 Federal Second 140, 144—*) allows that the germ of the fifth amendment might appear in article 38 of the Magna Carta.

While these changes were taking place in the civil law there were also innovations in the canon law. From 1198 to 1216 Innocent III instituted the inquisitorial system through a series of decretals outlining the ex officio oath procedure in which the church official had the power, by virtue of his office, to require a person to answer truthfully upon his oath all questions put to him. The official was not to proceed against a person without reason, either common report or notorious suspicion. Cardinal Otto introduced this procedure into England in a constitution resulting from the Pan-Anglican Council of London in 1236. My citation for this information is Wigmore, pages 270-276.

The civil courts begin to abandon the old method of oath by compurgation or oath of innocence in favor of the more efficient method of the canon oath ex officio. At the same time, the safeguards that Innocent intended were ignored in both the canon and civil courts, resulting in widespread opposition to the procedure.

Throughout the following 500 years of struggle against the ex officio oath the grounds were essentially the same:

(1) People were opposed to judgment by an official rather than their own grand jury of neighbors and peers;

(2) They were opposed to the interrogatory fishing expeditions which resulted

when parties were questioned without proper presentment, that being contrary to the Magna Carta and the common law.

(3) They were opposed to a procedure which required a man to accuse himself, his family or his friends.

During the 14th century there were repeated petitions to the King to prohibit the use of the oath. As a result Edward III issued several important statutes. Relating to civil courts, 42 Edward III, chapter 3, states:

"No man shall be put to answer without presentment before justices, or matter of record, or by due process and writ original, according to the old law of the land."

Again citing Wigmore, page 268. Edward III's *De Articuli Cleri* incorporates a previous prohibition by Henry III, limiting the use of the oath by ecclesiastical courts to matrimonial and testamentary causes:

"And they suffer not that any Laymen within their Bailiwick, come together in any Places to make such Recognitions by their Oaths, except in Causes of Matrimony and Testamentary."

In 1382 the prelates had an alleged act of Parliament put on the statute books which was supposedly enacted during the second session of Parliament in the 5th year of the reign of Richard II. The act, entitled "Statutes of the Realm 25-26," gave the church the power it wanted against heretics—enforced imprisonment of suspects until they confessed. But at their next session Commons said they had never assented to the enactment, and asked the King to declare the act void; he did so.

De Articulus Cleri was made ineffectual by Henry IV, who gave the canon courts the right to "determine" heresy according to the canonical decrees." That is 2 Henry IV, chapter 15.

In 1487 the statute which sanctioned the Star Chamber—that is 3 Henry VII 1—expressly gave it the power to examine the accused on oath in criminal cases, with no mention of the restrictions named in the ecclesiastical rulings, such as necessary presentment. This was the first formal statement acknowledging power to use the ex officio oath in civil cases; though, as above mentioned, it was not the first use of it. The authority behind this power was purely statutory, and not in keeping with the common law. The Star Chamber survived almost 200 years under this statute.

To abate protest against the ex officio oath Henry VIII enacted a statute providing that:

"Every person and persons being presented or indicted of [heresy] or duly accused or detected thereof by two lawful witnesses at the least to any Ordinaries of this Realm having power to examine heresies, accusation or presentment and none otherwyse nor by other meanes by cited converted arrested [or] taken" * * *

That is 25 Henry VIII, chapter 14.

The grievance relieved by this statute is clearly against the ex officio oath and the negligence on the part of the courts in not requiring due presentment.

Edward VI took away the church's jurisdiction over heresy. Mary repealed the statutes of Henry VIII and revived those of Henry IV and the repudiated statute of Richard II. In the first year of the reign of Elizabeth she consolidated all power, ecclesiastical and civil, under the auspices of the crown, thus giving her complete jurisdiction in all matters. She had the Star Chamber with its carte blanche statutory powers to investigate and decide civil matter; and she had the Court of High Commission with equally undefined power in ecclesiastical cases.

The opposition this time was led by the Puritans. The basis of their dissent was that the inquisitorial technique of forcing a man to accuse himself or inform on his family and friends on oath was contrary to the common law tradition and to the dignity of man. The Puritans had good legal counsel and the

sympathy of Commons throughout the battle. During this time the common law courts nullified punishments imposed by the High Commission for refusing to take the oath.

During this time the courts, speaking for the Queen, made many erroneous historical arguments refuting the accurate historical arguments made by the Puritans; thus it is sometimes difficult to separate fact from half-truth and fiction. But as Puritan opposition grew cases arose in which man flatly refused to take the oath; their statements and the decisions in these cases are irrefutable.

In 1584 an alliance was formed between the Puritan and Commons; and there was public support in the form of letters to the Queen for the Puritan cause, signed by many prominent members of Lords. Also in this year Commons drew up a series of complaints one of which was:

"* * * to forbear * * * examination *ex officio* *mero* of godly and learned preachers not detected [accused] unto them * * * and only to deal with them for such matters as shall be detected in them * * *"

The legal issue centered on a matter of procedure. The Star Chamber and High Commission were requiring men to answer on oath to crimes for which there was no presentment, and sometimes to answer on oath to questions designed to ferret out a chargeable crime.

In 1590 the preacher Udall before the High Commission refused to answer, on the ground that there was no indictment against him. However, a few months later, before a common law jury with proper presentment, he could not make that claim.

Udall's argument against answering on oath was a new one in the Puritan struggle. It was an appeal to freedom of conscience, and claimed that the oath was contrary to common law tradition. This reliance on the history of the common law tradition was the turning point in the Puritan struggle against royal prerogative.

The same circumstances held in the Jesuit Garnet's trial of 1606, which is reported in 2 How, State Trials, page 218:

"Garnet: 'When one is asked a question before a magistrate, he is not bound to answer before some witnesses be produced against him, "quia nemo tenetur prodere seipsum".'"

As Wigmore notes, this is not a flat refusal to answer, only an acknowledgement of the right to proper presentment. And John Lilburne, which is quoted, or cited, in 3 How, State Trials 1815, says "If I had been proceeded against by a bill I would have answered."

In his appeal to the House of Lords in 1646 Lilburne's lawyers argued:

"The ground whereof being that Mr. Lilburne refused to take an oath to answer all such questions as should be demanded of him, it being contrary to the laws of God, nature, and the kingdom, for any man to be his own accuser."

The Lords vacated his sentence, saying it was "illegal, and most unjust, against the liberty of the subject and the law of the land and Magna Charta."

It should be noted that the Star Chamber and High Commission had been abolished in 1641: so that the *ex officio* oath was prohibited. At the time they were abolished England was in a state of upheaval: Commons was in open revolt; Charles had given up his royal prerogative. Thus ended in England the inquisitorial practice for forcing a man to accuse himself.

Thereafter it began to be accepted that no man is bound to incriminate himself on any charge, no matter how instituted, in any court. The jurisdictional distinction of proper presentment became unnecessary. Acceptance came first in the criminal trials and afterwards in civil cases. By the end of Charles II's reign the privilege to remain silent was extended to ordinary witnesses,

not just the accused. However, this was in reality not much more than a rule that judges would recognize only on demand. "The old habit of questioning and arguing the accused died hard—did not disappear, indeed, until the 1700's had begun."

In the light of earlier grievances and their resulting statutes, it is clear that Wigmore's appraisal of the development of the right to silence as an outgrowth of jurisdictional jealousy between church and state in the 16th and 17th centuries is not an adequate explanation. The accusatorial system goes as far back as the Germanic adversary procedure, which began to change around 800 toward a more rational judicial process.

The oath of the ancient common law was an oath of innocence, not an inquisitorial oath. With the introduction of the Romish inquisitorial procedure, the English people fought against the power that system affords the state, as being contrary to common law and the dignity and autonomy of the individual.

As a result, the fifth amendment to the U.S. Constitution was adopted, and the fifth amendment reads:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, nor shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty or property without due process of law."

I am urging, Mr. Chairman, that the fifth amendment contains two separate provisions: One, that there be an indictment, namely, that "no person shall be held to answer * * * unless upon presentment or indictment of a Grand Jury;" and the second portion being that which is generally recognized and understood as being the invocation of the fifth amendment, namely, "* * * nor shall be compelled in any criminal case to be a witness against himself * * *"

The essence of the distinction urged on behalf of Mr. Liddy is that the fifth amendment privilege affords a defendant greater safeguards than it does an ordinary witness. In support of this contention I refer to the basic interpretations of the fifth amendment and suggest they be interpreted in support of his contention. Quoting from Wigmore:

"The privilege is a prerogative of a defendant not to take the stand in his own prosecution * * *; it is also an option of a witness not to disclose a self-incriminating knowledge in a criminal case, and in a civil case, and before grand jury and legislative committee and administrative tribunal."

Mr. NEDZI. Would you please repeat that?
Mr. MAROULIS. Yes, sir.

"The privilege is a prerogative of a defendant not to take the stand in his own prosecution * * *; it is also an option of a witness not to disclose self-incriminating knowledge in a criminal case, and in a civil case, and before a grand jury and legislative committee and administrative tribunal."

Citing 8 Wigmore, evidence, section 2251. That is the McNaughton revision of 1961.

Again citing Wigmore,

"The accused in a criminal case, therefore, is exempt from all answers whatever, for, at least on the prosecution's assumption, they are incriminating." (8 Wigmore, evidence, section 2260 [McNaughton revision 1961]).

"For the party defendant in a criminal case, the privilege has been construed to permit him to refuse to answer any question whatever in the cause. (Section 2268 *supra*)

"(a) This being so, the prosecution could nevertheless on principle have a right at least to call him to be sworn because, as with an ordinary witness, it could not be known before hand whether he would exercise his privilege. But no court has sanctioned this application of the principle. The contrary is universally held." (Section 2268 *supra*)

"The accused has a privilege not to take the stand." (*Cephus v. United States*, 324

Federal second 893), which is a District of Columbia circuit opinion, and *United States v. Aguci*, 301 Federal second, a Federal second circuit case.

In *Frank v. United States*, 347 Federal second 486, the District of Columbia circuit set forth the principle as follows:

"To repeat, the Government may not convict a person and then, pending his appeal, compel him to give self-incrimatory testimony relating to the matters involved in the conviction. Any other construction of the statute would lead to such potential abuse as to preclude such construction if it may reasonably be avoided consistently with the congressional purpose. Our construction and application of the statute we think coincides with that purpose * * * ("Frank v. United States, *supra*, at 491)

The U.S. Court of Appeals for the District of Columbia circuit considers a position of a defendant called before a grand jury to be analogous to that of a defendant on trial. In *Jones v. United States*, 342 Federal second, 863, the court states:

"At a trial, putting the accused on the witness stand without his consent and asking him anything at all would violate his constitutional privilege against self-incrimination. We think taking him before the grand jury without his consent and asking him anything violates his privilege."

May I have a moment sir?

In conclusion I would add that it is common knowledge that my client not only has been indicted, convicted, and has an appeal pending, but that he is the target of several grand jury investigations relating to the very subject matter under inquiry by this subcommittee.

I therefore urge this subcommittee to accept the position that my client has taken, and not to consider it to be in anyway frivolous or in any way intended to be arrogant.

Mr. NEDZI. Did you wish to make any statement, Mr. Liddy?

Mr. LIDDY. No, Mr. Chairman, I do not. Thank you, sir.

Mr. NEDZI. The Chair will state that the subcommittee was duly created pursuant to procedures of the Congress, was granted authority to issue subpoenas. Pursuant to that authority, the witness before us today was called.

It is the judgment of the subcommittee that the proceeding is taking place pursuant to the law as passed by the 93d Congress.

At this point, without objection, the Chair will place in the record House Resolution 185, 93d Congress, first session, as well as a letter from the chairman of the full Armed Services Committee to me as chairman of the Special Subcommittee on Intelligence.

[H. Res. 185, 93d Cong., 1st sess.]

RESOLUTION

Resolved, That, effective January 3, 1973, the Committee on Armed Services, acting as a whole or by subcommittee, is authorized to conduct full and complete studies and investigations and make inquiries within its jurisdiction as set forth in clause 3 of rule XI of the Rules of the House of Representatives. However, the committee shall not undertake any investigation of any subject which is being investigated for the same purpose by any other committee of the House.

Sec. 2. (a) For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings and require, by subpenea or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoran-

dums, papers, and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member. The chairman of the committee, or any member designated by him, may administer oaths to any witness.

(b) Pursuant to clause 28 of rule XI of the Rules of the House of Representatives, the committee shall submit to the House, not later than January 2, 1975, a report on the activities of that committee during the Congress ending at noon on January 3, 1975.

SEC. 3. (a) Funds authorized are for expenses incurred in the committee's activities within the United States; however, local currencies owned by the United States shall be made available to the Committee on Armed Services of the House of Representatives and employees engaged in carrying out their official duties for the purposes of carrying out the committee's authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

(b) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones.

[H.A.S.C. No. 93-3]

ORGANIZATION MEETING OF HOUSE COMMITTEE ON ARMED SERVICES, 93D CONGRESS

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., Tuesday,
February 27, 1973.

The committee met, pursuant to notice, at 10:25 a.m., in room 2118, Rayburn House Office Building, the Honorable F. Edward Hébert (chairman) presiding.

The CHAIRMAN. The committee will be in order.

Members of the committee, this is our first formal meeting, the organization meeting for the first session of the 93d Congress. Since last year, the committee has been enlarged from 41 to 43 members, and I am sorry that members in the front row are a little crowded, but that is not a thing of my doing.

The CHAIRMAN. Members of the committee, we will proceed to the regular business. I will

recognize Mr. Price, who will offer Committee Resolution No. 1: the proposed rules governing the procedure of the committee.

Mr. MELVIN PRICE. Mr. Chairman, I offer the resolution and ask for its immediate consideration.

Mr. SLATINSHEK. The resolution offered by Mr. Price reads as follows:

"Resolved, That the Committee on Armed Services, House of Representatives, adopt the following rules governing the procedure for the committee during the 93d Congress:."

Mr. SLATINSHEK. "1. The Committee on Armed Services will meet every Tuesday at 10 a.m., and at such other time as may be fixed by the chairman, or by the written request of a majority of the members of the committee.

"6. (a) The Committee on Armed Services of the House of Representatives shall be organized to consist of five standing legislative subcommittees, to be designated 'Subcommittee No. 1, 'Subcommittee No. 2, ' 'Subcommittee No. 3, ' 'Subcommittee No. 4, ' and 'Subcommittee No. 5.'

"(c) The chairman of the full committee, at such time and for such purposes as he may deem advisable in the interest of committee business, is authorized to appoint additional special subcommittees for the purpose of investigating specific subjects or considering specific legislation.

"(d) The chairman shall have authority to refer all bills, resolutions, or other matters to any and all subcommittees or to the full committee. A subcommittee to which a bill, resolution, or other matter has been referred shall proceed with all possible diligence, if a majority of a quorum so directs, with appropriate inquiry and report its findings and recommendations to the full committee, but the chairman of the full committee shall have authority to discharge a subcommittee from consideration of any bill, resolution, or other matter referred thereto and have such measure or matter considered by the full committee. A majority vote of a quorum of a subcommittee will be required to report a bill, resolution, or other matter to the full committee or to table any such measure or matter in the subcommittee.

Mr. MELVIN PRICE. I move the adoption of the resolution.

The CHAIRMAN. A motion has been made.

The CHAIRMAN. Those in favor of adopting the rules as amended will signify by saying aye when you name is called.

Those opposed, no.

Mr. Slatinshek, call the roll.

(A rollcall was taken.)

Mr. SLATINSHEK. Mr. Chairman, all 43 members voting in the affirmative, the rules are adopted by the committee.

The CHAIRMAN. The rules are adopted. We will proceed from there.

The CHAIRMAN.

Now, members of the committee, under the authority of the rules just adopted unanimously by the committee, the Chair will ask that Mr. Slatinshek read out the subcommittees authorized by those rules, and the members as selected by the chairman on the Democratic side, and the members selected on the Republican side by Mr. Bray.

The CHAIRMAN. Thank you, very much.

Now, members of the committee, in accordance with the rules as adopted, we have two special subcommittees to appoint at this time, in addition to the five committees.

Members of the committee, in addition to the establishment of the standing legislative subcommittees, under the rules of the committee, I am empowered to establish additional special subcommittees to properly discharge committee business.

In accordance with this authority, I am today establishing two special subcommittees. The first is the Subcommittee on Intelligence.

As the members of the committee will recall, this subcommittee functioned during the 92d Congress during which time it was directed to make periodic inquiries into all phases of intelligence activities within the Department of Defense and within the agencies established under the National Security Act, and to make legislative recommendations when appropriate.

That subcommittee, under the chairmanship of our colleague, Mr. Nedzi, discharged its responsibilities in a very excellent fashion, and, therefore, I am reestablishing that subcommittee.

I pause now to pay tribute to the manner in which Mr. Nedzi conducted that committee. It is a very sensitive committee; extremely sensitive. It is a committee that takes the greatest amount of tact and understanding to chair. Mr. Nedzi never faltered or never failed in any area.

Of particular significance is the fact that, as everybody knows, certainly he and I disagree in many political philosophies, and the fact I chose him is an added tribute in my implicit belief in his integrity and honesty, and as an effort to make the committee a whole committee and not a sectional or individual committee with individual people doing individual things for whatever purpose they want.

I pay Mr. Nedzi the highest tribute I can, and I know that he will carry on in this Congress.

The committee will be composed of Mr. Nedzi as chairman, Mr. Hébert, Mr. Melvin Price, Mr. Fisher, Mr. Bray, Mr. Arends, and Mr. Bob Wilson.

The CHAIRMAN. The committee adjourned until 10 a.m. tomorrow.

(Whereupon, at 11:50 a.m. the committee adjourned, to reconvene at 10 a.m., Wednesday, February 28, 1973.)

POWERS AND DUTIES, COMMITTEE ON ARMED SERVICES, NINETY-THIRD CONGRESS

The House Committee on Armed Services was established January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the Committees on Military Affairs and on Naval Affairs which were created in 1822. Rule XI(3), U.S. House of Representatives, provides that all proposed legislation, messages, petitions, memorials, and other matters relating to the following listed subjects shall be referred to the Committee on Armed Services:

- (a) Common defense generally.
- (b) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
- (c) Ammunition depots; forts; arsenals; Army, Navy, and Air Force reservations and establishments.
- (d) Conservation, development, and use of naval petroleum and oil shale reserves.
- (e) Pay, promotion, retirement and other benefits and privileges of members of the Armed Forces.
- (f) Scientific research and development in support of the armed services.
- (g) Selective service.
- (h) Size and composition of the Army, Navy, and Air Force.
- (i) Soldiers' and sailors' homes.
- (j) Strategic and critical materials necessary for the common defense.

INVESTIGATIVE AUTHORITY

House Resolution 185, adopted by the House of Representatives on Feb. 21, 1973, provides as follows:

"That, effective Jan. 3, 1973, the Committee on Armed Services, acting as a whole or by subcommittee, is authorized to conduct full and complete studies and investigations and make inquiries within its jurisdiction as set forth in clause 3 of rule XI of the Rules of the House of Representatives. However, the committee shall not undertake any investigation of any subject which is being investigated for the same purpose by any other committee of the House.

"SEC. 2. (a) For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents, as it deems necessary. Subpoenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member. The chairman of the committee, or any member designated by him, may administer oaths to any witness.

"(b) Pursuant to clause 28 of rule XI of the Rules of the House of Representatives, the committee shall submit to the House, not later than Jan. 2, 1973, a report on the activities of that committee during the Congress ending at noon on Jan. 3, 1975.

"SEC. 3. (a) Funds authorized are for expenses incurred in the committee's activities within the United States; however, local currencies owned by the United States shall be made available to the Committee on Armed Services of the House of Representatives and employees engaged in carrying out their official duties for the purposes of carrying out the committee's authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

"(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in sec. 502(b) of the Mutual Security Act of 1954 (22 United States Code 1754).

"(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

"(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

"(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports filed by the chairman with the Committee on House Administration and shall be open to public inspection.

"(b) Amounts of per diem shall not be

furnished for a period of time in any country if per diem has been furnished for the same period of time, in any other country, irrespective of differences in time zones."

Funds to support House Resolution 185 are contained in House Resolution 264, approved by the House of Representatives on Mar. 20, 1973.

MAY 21, 1973.

Hon. LUCIEN N. NEDZI,
Chairman, Subcommittee on Intelligence,
House Committee on Armed Services,
Washington, D.C.

DEAR MR. CHAIRMAN: For the purpose of fully discharging its responsibilities, the Subcommittee on Intelligence is vested with the authority granted and conferred in House Resolution 185, 93d Congress.

The Subcommittee may, therefore, require by subpoena or otherwise, the attendance and testimony of such witnesses and production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpoenas may be issued by you, as Chairman of the Subcommittee, with the approval of a majority of the members of the Subcommittee. Witnesses testifying before the Subcommittee may be sworn at the discretion of the Chairman and with the concurrence of the majority of the Subcommittee members present.

Sincerely,

F. EDW. HÉBERT,
Chairman.

MINUTES—SPECIAL SUBCOMMITTEE IN INTELLIGENCE, HOUSE ARMED SERVICES COMMITTEE—JUNE 12, 1973

The Special Subcommittee on Intelligence met in Executive Session at 10:00 a.m., Room 2337 Rayburn Building, to consider subcommittee business and agreed to defer to the Senate Select Committee on Presidential Campaign Activities' request that Mr. Dean's appearance before the subcommittee be delayed.

The subcommittee also concurred in the subpoena of Mr. E. Howard Hunt, Mr. Gordon Liddy, Mr. James McCord, Jr. and Mr. Huston, and Mr. Egil Grogh.

Members President: Mr. Nedzi, chairman; Mr. Hébert, Mr. Price, Mr. Bray, Mr. Arends and Mr. Bob Wilson.

At approximately 10:35 a.m., the subcommittee began receiving testimony from the following witness on the Watergate-CIA matter: Mr. John D. Ehrlichman, former White House staff member.

The subcommittee recessed at 3:50 p.m. to meet at the call of the Chair.

WILLIAM H. HOGAN, Jr.,
Assistant Counsel.

Mr. NEDZI. The Chair will not pretend to indicate to those in the subcommittee room that he fully understands all the legal niceties presented by counsel. It is the Chair's judgment that counsel's brief is extremely profound and presents a novel legal argument with which the Chair is not familiar.

It is the subcommittee's contention that this proceeding is not a trial, that the witness before us is not a defendant, and that proper questions can be raised as to the appropriateness of the analogies drawn in the historical recitations presented by counsel.

The subcommittee takes the position that Congress in the exercise of its authority has a longstanding right, recognized by the courts of the United States, to compel testimony before it.

Similarly, the subcommittee recognizes that witnesses before congressional investigating committees or subcommittees have a longstanding right to invoke the privileges of the fifth amendment; and if the witness elects not to disclose any information to us, we recognize that if in fact his testimony

might tend to incriminate him, he is privileged to assert the privileges of the fifth amendment.

However, the subcommittee takes the position that the proceedings to this point have been proper and in accordance with the law, and wishes to state to counsel and to the witness that should he fail to take the oath, the subcommittee has no reasonable recourse but to proceed in accordance with the law as the subcommittee understands it, which, of course, includes a contempt proceeding through the House of Representatives, and all the consequences that flow therefrom.

At this point, we would like to incorporate also in our record the petition for writ of habeas corpus made to the U.S. District Court for the District of Columbia, and a copy of the order issued by the U.S. district judge.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

In Re: Hearings of the Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives; Misc. No. 94-73.

PETITION FOR WRIT OF HABEAS CORPUS
AD TESTIFICANDUM

The Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives, by its Chairman, respectfully represents to the Court as follows:

(1) One George Gordon Liddy is a necessary witness at hearings before said Subcommittee.

(2) The said George Gordon Liddy is currently in the custody of the United States Marshal, District of Columbia, and the Superintendent, District of Columbia Jail.

Wherefore, the petitioner moves that this Court issue a Writ of Habeas Corpus Ad Testificandum, directed to the United States Marshal, District of Columbia; and the Superintendent, District of Columbia Jail, ordering the release of the said George Gordon Liddy into the custody of the said United States Marshal for the District of Columbia, or into the custody of one of his authorized deputies, to testify before the Intelligence Subcommittee relative to the above-captioned matter.

LUCIEN N. NEDZI,
Chairman, Special Subcommittee on Intelligence.

Let this Writ of Habeas Corpus Ad Testificandum issue as of this 16 day of July 1973.

JOHN J. SIRICA,
Chief Judge.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

In Re: Hearings of the Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives; Misc. No. 94-73.

To: United States Marshal, District of Columbia; Superintendent, District of Columbia Jail.

You are hereby commanded to produce the body of George Gordon Liddy, by you imprisoned and detained, on Friday, July 20, 1973, at 10:00 a.m., under safe and secure conduct before the Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives, Room 2337 Rayburn Office Building, Washington, D.C., for the purpose of giving testimony before said Subcommittee, and after said prisoner shall have given his testimony on the above matter, that he be returned by the said United States Marshal for the District of Columbia, or one of his deputies to the custody from whence he came.

Witness the Honorable Chief Judge of said Court on 16th day of July, 1973.

JAMES F. DAVEY, Clerk,
By JAMES P. CAPITANIO,
Deputy Clerk.

Mr. MAROULIS. Mr. Chairman, if I may I would ask that my letter of June 20, 1973, addressed to W. H. Hogan, counsel to the House Armed Services Committee, also be made part of the record.

Mr. NEDZI. Would you care to read the letter?

Mr. MAROULIS. I would be happy to provide a copy. I will read it, also, if you would like, sir.

Mr. NEDZI. Please read it, so the subcommittee has an indication of what is in it.

Mr. MAROULIS. It is dated June 20, 1973, addressed to W. H. Hogan, counsel, Committee on Armed Services, 2120 Rayburn Building, Washington, D.C. 20515.

"Re Special Intelligence Committee hearings into alleged CIA-Watergate matter.

"Dear Mr. Hogan:

"I am writing on behalf of my client, G. Gordon Liddy, to request the Special Intelligence Subcommittee to defer further proceedings into the alleged CIA-Watergate matter. The committee is presently holding hearings at which I am told Mr. Liddy is to be called as a witness, notwithstanding that he is a defendant in a criminal case on appeal, a defendant in a pending civil case, and a target witness of a grand jury reconvened to investigate further alleged criminal activities, all of which are the subject of your hearings.

"Presumably testimony is being given at the hearings by witnesses who have been called in the civil case, the criminal case and before the grand jury. Those witnesses will be called at a trial subsequent to forthcoming indictments and at a retrial, should Mr. Liddy's conviction be reversed.

"It is my judgment that the record on appeal contains several errors of constitutional dimension which will require reversal. In view of the great public interest engendered in the Watergate matter by media coverage and the national television broadcasting of the Senate Select Committee hearings, where in this country are unbiased juries for these trials to be found?

"It is my contention that additional investigation and publicity by the subcommittee at this time further deprives Mr. Liddy of his fifth amendment rights not to answer to a criminal charge except on indictment, not to be compelled to give evidence against himself and to enjoy due process, and his sixth amendment rights to a fair trial and an impartial jury.

"I have informed you that my client will, on advice of counsel, invoke his fifth amendment rights, if called to testify. I, therefore, request that Mr. Liddy not be required to appear before the subcommittee. I believe such an appearance would result in additional publicity prejudicial to my client's constitutional rights (*Delaney v. United States* 199 Federal second 107, first circuit 1952).

"Very truly yours,

"PETER L. MAROULIS."

Mr. Chairman, I would also add one more item to what I have said.

In the past few days it appears that there have been several witnesses before this subcommittee. I understand that Mr. Krogh is alleged by the newspaper accounts to have come before this committee and pleaded the fifth amendment some 50 times. The witness who followed Mr. Krogh, whose name escapes me at the moment—Mr. Young, as I am informed by my client—is alleged, according to the press, to have invoked the fifth amendment 40 times.

This morning I heard on the radio that Mr. Dean is alleged to have invoked the fifth amendment 67 times.

This is the very type of publicity that I am seeking to avoid on behalf of my client, to preserve his sixth amendment rights, in addition to the argument that I made on behalf of his fifth amendment rights.

Mr. NEDZI. The letter which you read to the subcommittee is dated today, is it not?

Mr. MAROULIS. No, sir. It is dated June 20, 1973.

Mr. NEDZI. June 20?

Mr. MAROULIS. Yes, sir.

Mr. NEDZI. Mr. Maroulis, you having given the subcommittee the benefit of your judgment of the law, it is, as I stated earlier, the opinion of the Chair that the Chair is not qualified at this time to issue any legal rulings on the very technical, and indeed profound, legal argument which you have made.

But the Chair will overrule your arguments and proceed with the hearing, with the admonition that you as counsel, and the witness, Mr. Liddy, should be prepared to suffer whatever consequences flow from this kind of position.

Let the record show that at the time the hearing was convened—present as subcommittee members were Mr. Hébert, Mr. Bray, Mr. Price, Mr. Arends, and the chairman of the subcommittee, a quorum.

Mr. HOGAN. And may I suggest, Mr. Chairman, at the present time?

Mr. NEDZI. And present throughout the proceedings to this point. That is right.

[Also present were Mr. Slatinshek and Mr. Hogan, counsel to the committee.]

Mr. NEDZI. Mr. Liddy, will you please rise and take the the oath?

Do you solemnly swear that the testimony you are about to give in this hearing be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LIDDY. Mr. Chairman, I hope you personally, and each of the members of this subcommittee and the members of the Congress, would not take it as in any way a manifestation of disrespect of any of you personally or of this body, for me to rely upon the advice of my counsel. And in reliance upon the advice of my counsel which has just been articulated to you, with all due respect I decline to take the oath as a witness.

Mr. NEDZI. Mr. Chairman, do you have any statement to make?

Mr. HÉBERT. The one emphasis I would make, Mr. Chairman, is the one which you have already made: Mr. Liddy is not on trial here, with deference to counsel's representation in his letter of June 20 in reference to a trial prejudicial to his client.

I well understand counsel's eagerness to protect a client. This is not a trial. We do not intend, nor have we the responsibility, to find anybody either guilty or innocent.

We are proceeding under the legislative fiat of finding out facts in order to propose or not propose future legislation as relates to the Central Intelligence Agency. Our concern and responsibility is limited to only the Central Intelligence Agency, not to any other matters. It is our duty and our responsibility to establish that.

But this is not a trial, in any sense of that word. It is a legislative inquiry directed by the Congress of the United States under law.

I think Mr. Liddy, as well as his lawyer, should be advised, too, that there is precedent for an individual refusing to take an oath before a subcommittee of the Congress, and the courts, as I understand it—I am not a lawyer, Mr. Nedzi is—have upheld the right of the subcommittee to ask the witness to take an oath under these conditions.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. The counsel's statement was very interesting. It brought up many things in which I am interested. But I would have to agree with the chairman that, in my opinion, it does not apply to the matter of taking of the oath.

I believe taking the oath does not affect in any way the rights of the defendant to later invoke the fifth amendment to any and all questions asked.

Mr. NEDZI. Mr. Price.

Mr. PRICE. Mr. Chairman, I, of course, am

not a member of the legal profession. I have had experience in court-work, as a newspaperman years ago, and through my years of service in the Congress.

I do not see how taking of the oath would itself cause any problem to the witness. We do not deprive him of the right to invoke the fifth amendment following taking of the oath, if he so chooses to do.

As a nonlawyer, I think it might compound the witness' problem, just by the mere failure of taking the oath, because of the responsibility of this subcommittee to follow precedents already set by congressional committees.

I would think if I were in counsel's place I would advise my client to take the oath, and then proceed in any way he chooses, as a witness. Certainly we would not expect him to make any statements or give any responses that he or the counsel himself felt would in any way incriminate him, further incriminate him.

Mr. NEDZI. Mr. Arends.

Mr. ARENDS. I have no comments.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. I have one question I would like to direct to Mr. Liddy.

I presume your basis for refusal to take the oath is predicated entirely on the arguments presented by your counsel?

Mr. LIDDY. That is correct, sir. I am relying on the advice of counsel in the position I am taking here.

Mr. SLATINSHEK. Your position is based entirely on his argument presented today?

Mr. LIDDY. I adopt his argument. Yes, sir.

Mr. SLATINSHEK. You are not refusing to take the oath for religious grounds or for any other reason?

Mr. LIDDY. That is correct, sir.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman. I would like to direct a question or two to counsel.

Counsel, do you have any citations, in State or Federal courts, supporting your position on the oath?

Mr. MAROULIS. Not beyond what I have stated. I have not come across any.

Mr. HOGAN. Do you have a citation from a U.S. state or Federal court, even though it is repetition, do you have a citation supporting your position that your client is protected against taking an oath?

Mr. MAROULIS. Not beyond what I have stated. I do not mean to duck your question, Mr. Hogan.

Mr. HOGAN. If it is a U.S. State or Federal court, would you restate the citation that protects your client from taking on oath before this subcommittee?

Mr. MAROULIS. I would say this, sir, that I have cited whatever authority I have. I have drawn some analogies, also, with the District of Columbia circuit cases that I cited.

I believe I cited *Frank v. United States* and *Jones v. United States*.

Mr. HOGAN. Do *Frank v. United States* and *Jones v. United States* go to protect your client from taking an oath before this subcommittee?

Mr. MAROULIS. Excuse me, sir.

[Mr. Maroulis and Mr. Liddy confer.]

Mr. NEDZI. Off the record.

Mr. MAROULIS. Mr. Hogan, with regard to those particular cases to which you have just referred, both *Frank* and *Jones*, they deal with court. The analogy that I am drawing from those cases is that pending an appeal, that a man cannot be compelled to appear before a body, namely, a grand jury, which occurred in those cases, because he has an absolute right not to take the stand at his own trial. And I would argue by analogy that the same thing applies before a legislative committee.

Mr. NEDZI. The Chair will state that he has some views on the subject, but under the circumstances does not feel that it is neces-

sary for the legal arguments to be gone into in depth at this time.

The position of the subcommittee is that it is proceeding in accordance with the law, the statutes, the rules of the House of Representatives, and that the witness' refusal to take the oath at this time is a violation of law, and at an appropriate time the subcommittee will take whatever action it deems necessary.

Mr. MAROULIS. As a final word, do you insist on your position with respect to your client taking the oath, as described by you in the hearing this morning?

Mr. MAROULIS. Mr. Chairman, that is the advice that I feel in good conscience I must give my client, after a research of the law and the authorities that I have presented to you; and that is the advice that I have given him.

Mr. SLATINSHEK. Mr. Chairman.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. May I ask one question of counsel.

I gather you do not challenge the legislative purpose of the subcommittee, or the legislative objectives?

Mr. MAROULIS. I have not, I must say in candor, read the resolution. I really don't know. Thus far I have not raised that point.

Mr. SLATINSHEK. You recognize, as a number of members have stated, as well as the chairman, that the purpose of this hearing is to ascertain whether or not legislative action should be taken by the Congress in respect to the CIA, the General Intelligence Agency? And in order to make a judgment on that this committee is forced to inquire into the alleged involvement of the CIA into matters extending to the Watergate. As a consequence, this committee has received testimony from numerous witnesses who at one time or another have mentioned Mr. Liddy's name.

It is a necessary function of this committee, it is necessary for the record, to examine Mr. Liddy in respect to the CIA involvement in the Watergate. And this is the purpose of this particular hearing. This is why Mr. Liddy was called before this subcommittee.

I wanted counsel to understand that, since his argument seemed predicated on the premise that in some manner this was a trial. It is not a trial.

Mr. MAROULIS. I did not intend that—I did not intend to be understood in that fashion.

What I am concerned about is that my client is under indictment, has been convicted, has an appeal pending, and may have a retrial. He may also be the subject of separate and additional indictments and separate and different trials. And I am protecting his fifth and sixth amendment rights in those proceedings.

That is why I raise those arguments before this committee, because I can perceive that by taking the action that is requested by this committee my client would be abridging his fifth and sixth amendment rights. This is my understanding based upon the entire memorandum that I read to you and my research and understanding of those materials.

I feel that in good conscience I must so advise my client. I have advised him of that, and he has elected to follow my advice.

Mr. NEDZI. Is there any further statement either of you wished to make for the record?

Mr. MAROULIS. May I confer with my client for a moment?

Mr. NEDZI. Yes.

Mr. HOGAN. Mr. Chairman, may I have permission to attach to the record any other documents pertaining to the appointment of this subcommittee?

Mr. NEDZI. That permission is granted.

Mr. LIDDY. Mr. Chairman, with your permission I would like to make one point:

One of the gentleman who is a member of the subcommittee in speaking to Mr. Maroulis ask him if he "insisted"—I believe was

the word used by the member—on my taking client would have the absolute right not to take the stand.

I should like to make it clear that Mr. Maroulis as my counsel is advising me. He has not insisted that I accept his advice. My actions here this morning are done on Mr. Maroulis' advice but upon my responsibility.

Inasmuch as I detected in the language of the chairman the possibility of consideration by this body of punitive action, I should like to point out that any such punitive action should properly be directed toward me and not toward my client—I beg your pardon—my counsel. I am afraid I am lapsing back to the old days.

Second, I would like to say with respect to the argument on my behalf made by counsel—very articulately, in my judgment—I rely on it as a whole, and on no portion of it more or less than any other portion of it.

Thank you, Mr. Chairman. I appreciate the courtesy.

Mr. NEDZI. The Chair will state that he regrets very much any misunderstanding which may have flowed from his use of the word "insist," and the suggestion of punitive action.

Certainly he had no intention of suggesting that Mr. Maroulis was insisting on any particular defense to someone who himself is trained in the law, nor that he should be punished for asserting a very sophisticated, novel and, as I said, a profound, legal argument.

At any rate, it is the judgment of the Chair that the record is clear as to the respective positions of the witness, his counsel, and the members of the subcommittee.

At this point the Chair will excuse the witness, with the understanding that we reserve the right to pursue whatever legal steps we deem appropriate.

Mr. LIDDY. Mr. Chairman, I understand that. I appreciate it. And I would like just to thank the Chair and every member of this subcommittee for the number of courtesies which have been extended to me and to my counsel in connection with my appearance before this body today. I am grateful to you all, sir. Thank you.

Mr. HÉBERT. I would like the record to show one thing. We are making a record to be used in the future. I am sure glad you did not mean by use of the word "punitive," in my appreciation of the word "punitive," that we would take punitive action. We will only take action under the law, which I do not consider "punitive" in the definition of the word.

It is a loose word. I don't like it hanging that we are going to take punitive action against anybody.

Mr. LIDDY. Mr. Congressman, I think you have articulated the fact that all language is subject to construction, and reasonable men can differ.

Mr. HÉBERT. I just wanted to get this side in.

Mr. LIDDY. I understand, sir. I appreciate your concern.

Thank you very much, sir.

Mr. NEDZI. Mr. Price.

Mr. PRICE. I wonder if the counsel could explain to me as simply as possible why he feels that the mere taking of the oath, leaving aside all the other constitutional prerogatives the witness can follow, without any pressure of the subcommittee to try to force him to go beyond his constitutional privileges, leaving those aside, why that would be incriminatory.

Mr. MAROULIS. Mr. Price, in an abundance of caution I will preface my answer by stating that my position is based on the entire memorandum that I read to the subcommittee. But in an effort to focus some attention to some of the underlying cases for the position that I have recommended to my client, the basic item is that at a criminal trial my

It is apparent to me that he faces criminal trials; not before this tribunal, certainly, not before this committee. But that day has come for him, and I believe it will come again.

If the fifth amendment to the Constitution gives him the right not to take the stand at a trial, then according to my reasoning, and based on the historical precedents that I have set forth, I believe he also has the right, as long as he stands in that posture, to refuse to take the oath before any duly constituted committee or tribunal.

The second portion of my concern is based upon the publicity that other witnesses before this particular subcommittee have received, namely, they allegedly have invoked the fifth amendment, and it has been reported to the press. That is the type of item that I feel can be very damaging to my client in terms of his ability to have a fair trial at a subsequent date, either on the indictment for which he has been convicted and on which he presently has an appeal, or upon indictments which may come down from the grand juries that are presently investigating this case.

I hope that helps.

Mr. PRICE. If he were not in the posture that he is in, would you then, would you still suggest that he not take the oath?

Mr. MAROULIS. No, my position at that point would be different.

I have only, of course, considered his position and my advice to him based upon the posture that he finds himself in.

Mr. PRICE. In other words, your thinking is that the mere taking of the oath puts him on the stand, and until he takes that oath he is actually not on the stand?

Mr. LIDDY. Excuse me, Mr. Price.

[Mr. Liddy and Mr. Maroulis confer.]

Mr. MAROULIS. Mr. Price, it may be that if he were in different circumstances my advice would be different.

Again, just in an abundance of caution, since it is apparent to me that we are making a record for review, I am reluctant to give you a definitive answer on that, because I have not researched it. But certainly if his position were different it would affect the application of this historical precedent in law as I perceive it.

I believe that if he were not subject to indictment, if he were not presently under indictment, on appeal, or subject to further indictments, my advice might well be different, yes, sir.

Mr. PRICE. I have listened intently, and I enjoyed your historical review of the background for the later adoption of the fifth amendment. But I do not really read into it any prohibition against the administration of the oath.

Mr. MAROULIS. Mr. Price, again addressing myself to that inquiry, I can only state that if we could remove ourselves from this room and put ourselves into a courtroom my client then, I believe all would recognize and agree, has an absolute right not to even be called to give his name.

Now, I am not suggesting that that should be the case before other tribunals.

Mr. NEDZI. Yes, you are.

Mr. MAROULIS. I mean to the point of not even giving his name. I am not thinking in terms of not frivolously invoking a fifth amendment right when in fact a person is properly and lawfully required to give testimony and he then elects not to answer questions.

Mr. NEDZI. But you are electing to have him not give any testimony before this subcommittee.

Mr. MAROULIS. No, sir. I am electing—I am advising him that he may be curtailing his fifth amendment right as it would apply at some subsequent date before a court. And I have advised him that by taking the oath he

then might be curtailing a right which he presently has and has up until this point protected.

Mr. NEDZI. The Chair appreciates your argument, but disagrees, respectfully.

Mr. ARENDS. Mr. Chairman, may I ask one question?

Mr. NEDZI. Mr. Arends.

Mr. ARENDS. I am not a lawyer, Mr. Maroulis, but putting this in the parlance of the street, is this a case that you feel should the witness be sworn he is giving up a right, period?

Mr. MAROULIS. Under these circumstances, yes, sir.

Mr. LIDDY. Excuse me, Mr. Chairman.

[Mr. Liddy and Mr. Maroulis confer.]

Mr. LIDDY. Mr. Chairman, if I may, with your indulgence, for the purpose of the record, advise you that the election is mine rather than that of my counsel, that I have relied upon his advice, that advice being that which was articulated to you in his preliminary statement before you and in response to the inquiry by Congressman Price.

Certainly my choice of action before this subcommittee this morning is based upon a combination of the facts, and all of the facts, as I understand them to be, and the law as given to me in his advice by my counsel, Mr. Maroulis.

Certainly as a reasonable man, sir, should the facts in the future change I would, of course, review the new facts. I would, of course, review whatever different—if there is different—legal advice might be provided by my counsel. And I might change, or I might not change, my position. That is a judgment that I have not made, with which I am not as yet faced. When and if I ever am, I shall make whatever decision I believe to be appropriate at that time.

Thank you, sir.

Mr. NEDZI. Mr. Arends?

Mr. ARENDS. Nothing further.

Mr. NEDZI. Are there any further questions?

Mr. HOGAN. Just one.

Let the record show, Mr. Chairman, that the House resolution and the documents appointing this subcommittee to its work are available to counsel here during this session, in the event he cares to look at them; because he said he was not aware of those documents.

We have them here for your perusal, Mr. Maroulis and Mr. Liddy, if you care to look at them.

Mr. MAROULIS. Thank you. I would like to receive a copy.

Mr. NEDZI. The Chair at this time will excuse counsel and the witness, and we will proceed with the executive session.

[Counsel Maroulis and Mr. Liddy left the room.]

The Chair will observe that throughout the entire proceeding a quorum was present, and that the subcommittee has reaffirmed its earlier decision to hold the hearing in executive session, with unanimous consent.

[Discussion off the record.]

Mr. NEDZI. On the record.

Mr. HÉBERT. I will make the motion that Mr. Liddy be cited for contempt.

Mr. NEDZI. Mr. Hébert moves that the subcommittee take all necessary action for the House of Representatives to cite the witness, G. Gordon Liddy, for contempt of the subcommittee.

All those in favor signify by saying "Aye."

[Calls of "Aye."]

Mr. NEDZI. Those opposed, "No."

[No response.]

Mr. NEDZI. Let the record show that all members present voted in favor of the motion. [Mr. Nedzi, Mr. Hébert, Mr. Bray, Mr. Price, Mr. Arends.]

The subcommittee will stand in recess until further call of the Chair.

[Whereupon, at 11:40 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]

APPENDIX 2—MINUTES—COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES

MEETING NO. 43, JULY 26, 1973

The full committee met in open session in the Carl Vinson Room, at 10:22 a.m., to consider the report of the Intelligence Subcommittee with regard to the failure and refusal of G. Gordon Liddy to be sworn or to take affirmation to testify at the meeting of the subcommittee on Friday, July 20, in connection with the subcommittee's inquiry into the alleged CIA-Watergate-Ellsberg matters, the following members of the committee and staff being present:

Mr. Hébert, Chairman, Mr. Bray, Mr. Bob Wilson, Mr. Bennett, Mr. Stratton, Mr. Pike, Mr. Dickinson, Mr. Ichord, Mr. Hunt.

Mr. Nedzi, Mr. Whitehurst, Mr. Randall, Mr. Young, Mr. Charles Wilson, Mr. Spence, Mr. Leggett, Mr. Powell, Mr. Hicks, Mr. Robert Price.

Mr. White, Mr. Treen, Mr. Nichols, Mr. Armstrong, Mr. Brinkley, Mr. O'Brien, Mr. Mollohan, Mr. Beard, Mr. Dan Daniel.

Mr. Mitchell, Mr. Montgomery, Mrs. Holt, Mr. Runnels, Mr. Bob Daniel, Mr. Aspin, Mr. Dellums, Mr. Davis, Mrs. Schroeder.

Members absent:

Mr. Arends, Mr. Melvin Price, Mr. Fisher, Mr. Gubser, Mr. King, Mr. Jones.

Staff members present: Mr. Slatinshek, chief counsel; Mr. Morgan, professional staff member; Mr. Cook, counsel; Mr. Ford, professional staff member; Mr. Marshall, professional staff member; Mr. Norris, counsel; Mr. Shumate, counsel; Mr. Hogan, counsel; Mr. Cantus, professional staff member; Mr. Reddan, counsel, Armed Services Investigating Subcommittee; Mr. Ransom, professional staff member, Armed Services Investigating Subcommittee; Mrs. Stockstill, executive secretary; Mr. Short, clerical staff assistant.

The chairman made opening remarks stating that the purpose of the meeting was to consider the report of the Intelligence Subcommittee with regard to the failure and refusal of G. Gordon Liddy to be sworn or to take affirmation to testify at the meeting of the Intelligence Subcommittee on Friday, July 20, 1973, in connection with the subcommittee's inquiry into the alleged CIA-Watergate-Ellsberg matters.

The chairman recognized Mr. Nedzi, Chairman of the Intelligence Subcommittee to submit his report, in behalf of the Subcommittee, on Mr. Liddy's appearance before the subcommittee on July 20. Mr. Nedzi read a prepared statement and invited the attention of the members of the committee to the transcript of the subcommittee's proceedings on July 20, which was before each Member. At the conclusion of the reading of his statement, Mr. Nedzi read the resolution he proposed to bring before the House of Representatives citing Mr. Liddy for contempt of the Congress.

Considerable discussion ensued by members and counsel. During the course of the discussion, Mr. Treen offered a motion that action be postponed on the resolution proposed by Mr. Nedzi until a date next week to be designated by the Chairman, thereby giving the Members more time to examine pertinent facts bearing on the resolution. Following discussion of the motion, Mr. Treen stated it would be acceptable to him to amend his motion by postponing further consideration of the resolution until 2:00 p.m. today. This proposal was objected to by Mr. Bob Wilson.

Mr. Randall then moved the previous question, which was consideration of Mr. Treen's motion to postpone action on the proposed resolution until a time to be decided by the Chairman. The motion was agreed to by a show of hands vote of 23 Yeas and 9 Nays.

The committee recessed at 11:39 a.m., subject to the call of the Chair.

During the meeting the committee was recessed from 10:45 a.m. until 10:59 a.m. in

order that the members could respond to a quorum call.

FRANK M. SLATINSHEK,
Chief Counsel.

MINUTES—COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES

MEETING NO. 44, JULY 31, 1973

The full committee met in open session, in the Carl Vinson Room, at 10:13 a.m., to resume consideration of the report of the Intelligence Subcommittee with regard to the failure and refusal of G. Gordon Liddy to be sworn or to take affirmation to testify at the meeting of the Subcommittee on Friday, July 20, in connection with the subcommittee's inquiry into the alleged CIA-Watergate-Ellsberg matters, the following members of the committee and staff being present:

Mr. Hébert, Chairman, Mr. Bray, Mr. Arends, Mr. Bob Wilson, Mr. Stratton, Mr. King, Mr. Pike.

Mr. Dickinson, Mr. Hunt, Mr. Nedzi, Mr. Whitehurst, Mr. Young, Mr. Charles Wilson, Mr. Spence, Mr. Robert Price.

Mr. White, Mr. Treen, Mr. Nichols, Mr. Armstrong, Mr. Brinkley, Mr. O'Brien, Mr. Mollohan.

Mr. Beard, Mr. Dan Daniel, Mr. Montgomery, Mr. Bob Daniel, Mr. Davis, Mr. Jones, Mrs. Schroeder.

Members absent:

Mr. Melvin Price, Mr. Fisher, Mr. Bennett, Mr. Gubser, Mr. Ichord, Mr. Randall, Mr. Leggett.

Mr. Powell, Mr. Hicks, Mr. Mitchell, Mr. Holt, Mr. Runnels, Mr. Aspin, Mr. Dellums.

Staff members present: Mr. Slatinshek, chief counsel; Mr. Hogan, counsel; Mr. Shumate, counsel; Mr. Marshall, professional staff member; Mr. Norris, counsel; Mrs. Stockstill, executive secretary; Mr. Short, clerical staff assistant.

The Chairman made a brief opening statement setting forth the purpose of the meeting.

The Chairman recognized Mr. Treen, who made a statement regarding his study of the action recommended by the Intelligence Subcommittee.

The Chairman recognized Mr. Nedzi, who renewed his motion that the committee approve his proposal to bring before the House of Representatives a resolution citing Mr. G. Gordon Liddy for contempt of the Congress. The Chairman asked Mr. Hogan, counsel, to read the proposed resolution.

Mr. Pike moved the previous question, which motion was approved by a voice vote.

The Chairman ordered a roll call vote on Mr. Nedzi's proposal. The results of the roll call vote follow:

YEAS—33

Mr. Hébert, Mr. Bray, Mr. Melvin Price (proxy), Mr. Arends, Mr. Fisher (proxy), Mr. Bob Wilson, Mr. Stratton, Mr. King.

Mr. Pike, Mr. Dickinson, Mr. Hunt, Mr. Nedzi, Mr. Whitehurst, Mr. Young, Mr. Charles Wilson, Mr. Spence, Mr. Leggett (proxy).

Mr. Robert Price, Mr. White, Mr. Treen, Mr. Nichols, Mr. Armstrong, Mr. Brinkley, Mr. O'Brien, Mr. Mollohan.

Mr. Beard, Mr. Dan Daniel, Mr. Montgomery, Mr. Bob Daniel, Mr. Dellums (proxy), Mr. Davis, Mr. Jones, Mrs. Schroeder.

NAYS—0

There being 33 Yeas and no Nays, Mr. Nedzi's proposal to bring a resolution before the House of Representatives citing Mr. G. Gordon Liddy for contempt of the Congress was approved.

The committee recessed at 10:22 a.m., subject to the call of the Chair.

FRANK M. SLATINSHEK,
Chief Counsel.

APPENDIX 3—LEGAL MEMORANDUM RE REFUSAL OF GEORGE GORDON LIDDY TO BE SWORN AS A WITNESS BEFORE THE SPECIAL SUBCOMMITTEE ON INTELLIGENCE, JULY 20, 1973

On Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence, Mr. George Gordon Liddy, who was duly called as a witness pursuant to a Writ of Habeas Corpus, refused to be sworn prior to offering any testimony or claiming his privilege under the Fifth Amendment. A quorum being present, the subcommittee voted to report the matter to the full committee with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress.

In his appearance before the subcommittee on July 20th Mr. Liddy and counsel, through an extensive brief and exchange with the members of the subcommittee, claimed in essence that the Fifth Amendment incorporates the right of a witness before a congressional subcommittee not to take the stand and therefore not to be sworn. In sum, Mr. Liddy claimed he had the absolute right under the Fifth Amendment to remain completely silent with regard to any offering before the subcommittee. He sought to reinforce his position based on his current conviction on the Watergate break-in which is under appeal, and the possibility of future indictments being brought against him. He further argued a Sixth-Amendment right to avoid what he claims would be prejudicial publicity in the media should he claim his Fifth Amendment rights.

The bulk of the witness' brief is an extended historical survey of the development of the accusatorial system, the privilege against self-incrimination, and related matters. It is established, without any necessity for an historical treatment, that a defendant in a criminal case may not be compelled to give evidence against himself and indeed that he may not be called to the stand and made to take the oath at all if he chooses. With regard to compelling the appearance of the subject of an investigation, a possible future defendant, or an already indicted defendant before a grand jury, the rule varies in federal and state courts. The federal courts have generally refused to hold that the subject of the investigation, a prospective defendant, may decline to appear but they have indicated that there may be limits with respect to who may be called and under what circumstances the inquiry may proceed. Note, "The Rights of a Witness Before a Grand Jury," 1967 *Duke L. J.* 97, 105 nn. 31, 32. In support of his position, Mr. Liddy quoted, *inter alia*, from *Jones v. United States*, 342 F. 2d 863, 868 purporting to state the rule in the District of Columbia:

"At a trial, putting the accused on the witness stand without his consent and asking him anything at all would violate his constitutional privilege against self-incrimination. We think taking him before the grand jury without his consent and asking him anything violates his privilege."

That was not concurred in by a majority of the Court and was therefore not a holding. *Id.*, at 864. [Emphasis added.]

Whatever the rule prevailing with regard to grand juries, there is no support in the decided cases for any proposition that a defendant—prospective, past, or present—may decline to appear or refuse to take the oath before a congressional committee and Mr. Liddy does not offer a single citation to the contrary. A witness may of course assert his privilege against self-incrimination in regard to questions asked of him but he may not refuse to take the witness chair at all. The reason plainly is that a congressional committee is not a court, it has no power to try, convict, and sentence one, and its func-

tion is to carry on inquiries to determine the necessity for legislation and to review the implementation of legislation that has been enacted.

McGrain v. Daugherty, 273 U.S. 135 (1927), and the other prevailing case law, clearly establishes that a committee of one House of Congress may compel a private individual to appear before it and to give testimony provided that the inquiry is part of an exercise of the legislative function conveyed to Congress by the Constitution and that the process is being employed to obtain testimony for that purpose. The power of inquiry, the Court said, is "a necessary and appropriate attribute of the power to legislate" and is in fact to be treated "as inhering in it" for purposes of legislating and oversight with regard to enacted laws.

In the case at hand Mr. Liddy, who is in confinement, was properly before the subcommittee pursuant to a valid Writ of Habeas Corpus Ad Testificandum issued by Chief Judge John J. Sirica of the United States District Court for the District of Columbia on July 16, 1973. See *Gilmore v. United States*, 129 F. 2d 199 (1942). The authority and legislative purpose of the subcommittee has been established. H. Res. 185, 93d Congress; organization meeting of the House Committee on Armed Services, 93d Congress, February 27, 1973.

Title 2, United States Code Sections 192 and 194 as follows:

"Sec. 193. Refusal of witness to testify or produce papers

"Every person who, having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any questions pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000 nor less than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months. As amended June 22, 1937, c. 594, 52 Stat. 942.

"Sec. 194. Certification of failure to testify; grand jury action failing to testify or produce records

"Whenever a witness summoned as mentioned in section 192 fails to appear to testify or fails to produce any books, papers, records, or documents, as required, or whenever any witness so summoned refuses to answer any question pertinent to the subject under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee or subcommittee of either House of Congress, and the fact of such failure or failures is reported to either House while Congress is in session, or when Congress is not in session, a statement of fact constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its actions. As amended July 13, 1936, c. 884, 49 Stat. 2041; June 22, 1938, c. 594, 52 Stat. 942."

A refusal to take the oath and be sworn, it is established in the few cases dealing with this fact situation, constitutes under 2 U.S.C. Sec. 192 both a willful default and a refusal to answer. *Eisler v. United States*, 170 F. 2d 273, 279-281 (C.A.D.C. 1948); *United*

States v. Hintz, 193 F. Supp. 325, 327-328 (D.C.N.D. Ill. 1961).¹

In *Eisler* it was held that a deliberate and intentional refusal to be sworn is sufficient to constitute a violation of 2 U.S.C. 192. Also, said the court in *Eisler*, having been summoned by lawful authority, the witness was bound to conform to the procedures of the committee.

In *Hintz* the court stated that the mere charge of refusing to be sworn violated the so-called second branch of the statute. There is no question more pertinent to a subject under investigation than whether the witness will answer truthfully.

Any witness, of course, has the constitutional right to invoke his privilege against self-incrimination and refuse to answer when indeed he would be incriminated. But he must appear, he must take the stand, he must be sworn, and he must assert the privilege as to each incriminating question which is asked of him. "If the Committee was to be at all effective in bringing to Congress' attention certain practices * * * which should be subject to federal prohibitions, it necessarily had to ask some witnesses questions which, if truthfully answered, might place them in jeopardy of state prosecution. Unless interrogation is met with a valid constitutional objection 'the scope of the power of (congressional) inquiry * * * is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.' (Quoting *Barenblatt v. United States*, 360 U.S. 109, 111 (1960)). And it is not until the question is asked that the interrogator can know whether it will be answered or will be met with some constitutional objection. To deny the Committee the right to ask the question would be to turn an 'option of refusal' into a 'prohibition of inquiry' * * *." *Hutcheson v. United States*, 369 United States 599, 619.

Any suggestion that Congress cannot inquire into matters which were the subject of judicial proceedings necessarily applies to future judicial proceedings as well as pending. "If such were the reach of 'due process' it would turn a witness' privilege against self-incrimination into a self-operating restraint on congressional inquiry * * * and would in effect *pro tanto* obliterate the need for that constitutional protection." *Hutcheson v. United States*, (supra) 613 n. 16 (1962). See also, *Sinclair v. United States*, 279 United States 263 (1929). Accordingly, it appears that Mr. Liddy's position as a convicted defendant and a possible future defendant would not suffice to excuse his conduct at the hearing.

It is submitted that a justiciable case against Mr. Liddy under the provisions of 2 U.S.C. 192 has developed by virtue of his refusal to take an oath before a duly constituted subcommittee of the House with a duly established legislative purpose. Accordingly, the provisions of 2 U.S.C. 194 should be invoked for appropriate consideration within the processes established by law. Put another way, the Special Subcommittee is of the opinion that Mr. Liddy has been in contempt of Congress, and under the statutes, the issue of guilt or innocence should be resolved in the appropriate federal court.

Mr. NEDZI (during the reading). Mr. Speaker, since this report has been distributed to the membership as a committee print over the weekend, I ask unanimous consent that the further reading of the report and the appendixes be dispensed with, and that it be printed in full in the RECORD with the appendixes.

¹ See also *Proceedings Against Arnold S. Johnson*, H. Rept. No. 91-1461; Committee On Internal Security Annual Report, 1972, H. Rept. No. 93-301.

THE SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MR. NEDZI. Mr. Speaker, by direction of the Committee on Armed Services, I offer a privileged resolution (H. Res. 536) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 536

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Armed Services of the House of Representatives as to the refusal of George Gordon Liddy to be sworn or to take affirmation to testify before a duly authorized subcommittee of the said Committee on Armed Services on July 20, 1973, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said George Gordon Liddy may be proceeded against in the manner and form provided by law.

THE SPEAKER. The gentleman from Michigan (Mr. NEDZI) is recognized for 1 hour.

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

Mr. Speaker, on Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence of which I am chairman, Mr. George Gordon Liddy, who was duly called as a witness pursuant to a writ of habeas corpus, refused to be sworn prior to offering any testimony or claiming his privileges under the fifth amendment. A quorum being present, the subcommittee voted to report the matter to the full committee with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress. Since Mr. Liddy was in confinement in the District of Columbia Jail, as the result of his conviction on the Watergate break-in, the subcommittee petitioned Chief Judge John J. Sirica for a writ of habeas corpus ad testificandum as the only means of obtaining Mr. Liddy's presence before the subcommittee. In his discretion Judge Sirica signed that petition on July 16, 1973, and an order was delivered to the U.S. marshal for Liddy's presence before the subcommittee on July 20, 1973.

Mr. Speaker, the Special Subcommittee on Intelligence is a duly constituted subcommittee of the House Armed Services Committee pursuant to House Resolution 185, 93d Congress, and the appointment made during the organization meeting of the Committee on Armed Services on February 27, 1973. In addition, an order was given to me as chairman of that subcommittee directing that we conduct an inquiry regarding CIA involvement in Watergate-Ellsberg matters. The subcommittee commenced its hearings on May 11, 1973, and in 16 sessions since that date has had before it some 24 witnesses bearing on the subject of our inquiry. Although three witnesses before the subcommittee claimed their fifth amendment privilege throughout their appearance, Mr. Liddy was the sole witness who refused to be sworn.

In his appearance before the subcom-

mittee on July 20, Mr. Liddy and counsel, through an extensive brief and exchange with the members of the subcommittee, claimed in essence that the fifth amendment incorporates the right of a witness before a congressional subcommittee not to take the stand and therefore not to be sworn. In sum, Mr. Liddy claimed he had the absolute right under the fifth amendment to remain completely silent with regard to any offering before the subcommittee. He further argued a sixth amendment right to avoid what he claims would be prejudicial publicity in the media should he claim his fifth amendment rights.

All of the details concerning committee and subcommittee jurisdiction, the actual proceedings and committee actions on the case are contained in the committee print which was circulated to the House membership by letter dated August 29, 1973, and is presently before the House as a privileged report.

On July 26 and on July 31, 1973, the House Armed Services Committee met to consider the resolution before you today. After extensive discussion and consideration of the legal matters involved, the committee voted 33 to 0 to adopt the resolution.

Mr. Speaker, the position of the committee is that all substantive and procedural legal prerequisites have been satisfied for the hearing of Mr. Liddy as a witness and that the House should report a resolution which would refer the matter to the U.S. Attorney. Title 2, United States Code, sections 192 and 194 provide the necessary vehicles for taking this action. Section 192 provides the basis for indictment should a witness before either House of Congress refuse to answer any question pertinent to the inquiry. Section 194 provides the vehicle for certifying such a result to the appropriate U.S. Attorney. The central question is whether failure to take the oath constitutes a refusal to give testimony. We believe it does. Of course, the ultimate answer rests with the courts. While there may be merit to Mr. Liddy's argument as it pertains to testimony of a defendant in a court of law, we do not believe that it applies to a duly constituted congressional hearing without procedural deficiencies.

We have examined some of the basic case law on the subject and are of the opinion that we are in compliance with the basic substantive and procedural requirements in the onward reporting of the case. Accordingly, it is the position of the committee that the proceedings to date are in order and we recommend that the House approve going forward with a resolution that the Speaker certify to the U.S. Attorney the report as to the refusal of George Gordon Liddy to be sworn to testify at a meeting of the Special Subcommittee on Intelligence on July 20, 1973, together with all the facts in connection therewith to the end that he may be proceeded against as provided by law.

MR. ARENDS. Mr. Speaker, I rise in support of this Resolution and urge my colleagues to do likewise.

It has been a long-time tradition well-

supported in law that when witnesses called before congressional committees are required to be sworn prior to offering testimony it is their duty to rise and be sworn or make affirmation. Following that, it certainly is the right of every witness to claim the privilege against self-incrimination under the fifth amendment if, indeed, that be the case. However, the Congress and its committees has every right to put the question to the witness in our investigative and legislative functions. Then and only then should there be a decision as to whether a reply must be made. Certainly to condone a refusal to be sworn would stifle the entire congressional investigative process and that cannot be tolerated if we are to fulfill our legislative responsibilities. During the course of the subcommittee hearings, of which I am privileged to be a member, no other witness refused to be sworn although others did claim a privilege under the fifth amendment and in no case did the subcommittee question that right.

Although contempt proceedings could be conducted in the halls of Congress, the membership in their wisdom felt the better course was to refer all such cases to the appropriate U.S. Attorney for action after approval by the House concerned. That is what we ask you to do today in what I consider to be a clear cut violation of the statutory provision contained in section 192 of title 2, United States Code.

The integrity of the legislative process requires that we do nothing less than to pass this resolution. We believe Mr. Liddy should be cited for contempt of Congress for his failure to take the oath or make affirmation before a duly constituted subcommittee of the House Armed Services Committee, while in pursuit of a proper investigation of alleged Central Intelligence Agency involvement in the Watergate-Daniel Ellsberg matters.

MR. NEDZI. Mr. Speaker, I yield to the gentleman from Iowa.

MR. GROSS. Mr. Speaker, I believe that the gentleman stated that G. Gordon Liddy was the only one of numerous witnesses to be called before the subcommittee who refused to be sworn as a witness.

Is that correct?

MR. NEDZI. That is correct.

MR. GROSS. Was he not the only person to come before the committee who had been indicted, tried, and convicted, and had a case on appeal in the courts? Was he not the only witness in that status?

MR. NEDZI. In the status which the gentleman describes, I believe he was. However, Mr. McCord was also found guilty, and Mr. Hunt was found guilty also. That is correct. So he was not the only one in that status.

MR. GROSS. Did they have appeals pending?

MR. NEDZI. My understanding is that they do have appeals pending.

MR. GROSS. I am talking about the other two.

MR. NEDZI. That is my understanding, yes.

MR. GROSS. They were in the same status as Mr. Liddy?

Mr. NEDZI. With the exception of Mr. McCord who is not in confinement, as the gentleman knows, whereas Mr. Liddy was.

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

Mr. NEDZI. I yield to the gentleman from New Jersey.

Mr. HUNT. I ask the distinguished chairman to clarify that statement that referred to "Mr. Hunt." I am a member of the Armed Services Committee and I want it distinctly understood the gentleman is not talking about me. Will the gentleman be so good as to do that?

Mr. NEDZI. I will be glad to. The Mr. Hunt to whom I refer is E. Howard Hunt of Watergate fame.

Mr. HUNT. I thank the gentleman.

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

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

Mr. HUNGATE. Mr. Speaker, may I inquire, if we vote the citation, this gentleman is now doing time, is that correct?

Mr. NEDZI. That is correct.

Mr. HUNGATE. What is his sentence approximately? Is it 30 days or years?

Mr. NEDZI. It is years. I regret I cannot give the gentleman a specific answer.

Mr. HUNGATE. What would be the remedy if he were ordered found in contempt and still declined to answer?

Mr. NEDZI. I assume the remedy would be to tack onto his sentence whatever the court would deem appropriate.

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

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

Mr. DRINAN. Mr. Speaker, I commend the gentleman for the excellent report he has issued but I raise this question. It is my understanding that some 2 weeks prior to the actual appearance of Mr. Liddy, the committee had in writing a letter from Mr. Liddy's lawyer indicating that Mr. Liddy would not in fact furnish any information and that he would take the fifth amendment, as would be his right. I wondered if the chairman of the subcommittee would answer what precise information or what areas were to be explored by the committee with Mr. Liddy when it was known ahead of time that Mr. Liddy would in fact invoke the fifth amendment.

Mr. NEDZI. My response to the gentleman in the first instance is that counsel for Mr. Liddy did not indicate he would not be sworn. He said Mr. Liddy would take the fifth amendment. Of course the intention of the committee in calling Mr. Liddy was an effort to endeavor to elicit such information as Mr. Liddy possessed with reference to the involvement of the CIA in the whole Watergate affair.

Mr. DRINAN. I wonder if the chairman could tell me this. Is there any precedent in the annals of the House for citing for contempt a person simply because he has refused to take the oath?

Mr. NEDZI. Yes, there is precedent. There is the case which goes back to 1947 involving Gerhardt Eisler, who refused to be sworn before the House Un-American Activities Committee at that time.

Mr. DRINAN. But in the Eisler case were there not other circumstances that are not present here, or rather, in the Liddy case there are circumstances present that were not present in the Eisler case.

Mr. Liddy is now in jail; he is being investigated by a grand jury; he is a defendant in a civil case, and he felt that this might tend to incriminate him?

Mr. NEDZI. There are certain differences of course. On the other hand in the Eisler matter he was also in confinement at the time that he appeared and there were charges being pursued against him, so to that extent the two cases are very similar.

Mr. DRINAN. One further thing is not entirely clear to me from reading the documents. Mr. G. Gordon Liddy through his attorney said this would tend to defame him and degrade him and possibly incriminate him, but my understanding is that all this was in executive session, so how could his attorney say in fact that this would tend to implicate him since the proceeding would not be public?

Mr. NEDZI. Mr. Speaker, I cannot really respond to the gentleman's question.

Mr. DRINAN. Could he feel, though, that the fact would emerge that Mr. G. Gordon Liddy had invoked the fifth amendment and had thereby created prejudice against himself?

Mr. NEDZI. Mr. Speaker, I think that was a reasonable assumption on his part, certainly.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for responding.

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

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

Mr. ROUSSELOT. Mr. Speaker, on page 28 of the report before us, at the bottom of the page, it says:

There being 33 Yeas and no Nays, Mr. NEDZI's proposal to bring a resolution before the House of Representatives citing Mr. G. Gordon Liddy for contempt of Congress was approved.

Do we have a printed copy of this resolution?

Mr. NEDZI. The resolution was read before the House.

Mr. ROUSSELOT. The normal procedure is that we have a printed copy.

Mr. NEDZI. It is on the front page.

Mr. ROUSSELOT. Is there some great hurry that we cannot read the resolution?

Mr. NEDZI. It is on the front page of this report. This has been in the hands of the Members.

Mr. ROUSSELOT. The reason I asked is that we had some difficulty last Thursday, my office, when we were informed that the resolution would come up, in getting a copy. I just wondered if there was some great reason as to why everyone was denied a copy prior to this time.

Mr. NEDZI. Nobody was denied a copy. This was sent out to all the Members August 29.

Mr. ROUSSELOT. What is the number of it?

Mr. NEDZI. There is no number. It is a committee print.

Mr. ROUSSELOT. Could the gentleman tell me the difference between this citation on Mr. Liddy and the citation against the president of CBS, and how he voted on that?

Mr. NEDZI. I frankly cannot remember how I voted on that.

Mr. ROUSSELOT. Mr. Speaker, I am going to be interested to see how the votes go in comparison with protection of civil rights. I am inclined to vote for this resolution, but as it relates to the one for the president of CBS, who of course is in a much better position to protect himself than this gentleman, who is now in jail and obviously saluted away.

I am really somewhat disturbed, although the gentleman assures me that everybody was given adequate notification; yet, he cannot even tell me the number of the resolution we have before us.

Mr. NEDZI. The record is going to have to speak for itself on that score. I am advised there is no number until afterward.

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

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

Mr. HUNGATE. Mr. Speaker, I rise to support the committee's position based on the research report of the Library of Congress which follows:

This is in response to your request for an evaluation of the grounds of refusal of Mr. G. Gordon Liddy to take the oath as witness before the Special Intelligence Subcommittee. Basically, Mr. Liddy's argument seems to be that since he is a defendant in pending criminal actions—as a convicted defendant on appeal in one case and as a possible future defendant in the light of ongoing grand jury action—he is entitled under the Fifth Amendment's self-incrimination clause to refuse to take the stand as a witness at all. The argument with regard to this point is fused with an argument directed to the claim of prejudice in future trials which will be occasioned by his appearance, which may be a due process claim or which may simply be a gloss on the self-incrimination clause.

The bulk of the Maroulli memorandum, which you forwarded for our consideration, is an extended historical survey of the development of the accusatorial system, the privileges against self-incrimination, and related matters.

It is established, without any necessity for an historical treatment, that a defendant in a criminal case may not be compelled to give evidence against himself and indeed that he may not be called to the stand and made to take the oath at all if he chooses. With regard to compelling the appearance of the subject of an investigation, a possible future defendant, or an already indicted defendant before a grand jury, the rule varies in federal and state courts. The federal courts have generally refused to hold that the subject of the investigation, a prospective defendant, may decline to appear but they have indicated that there may be limits with respect to who may be called and under what circumstances the inquiry may proceed. Note, "The Rights of a Witness Before a Grand Jury", 1967 *Duke L. J.* 97, 105 nn. 31, 32. The language from *Jones v. United States*, 342 F. 2d 863, 868 (C.A.D.C. 1964), purporting to state the rule in the District of Columbia was not concurred in by a majority of the

Court and was therefore not a holding. *Id.*, at 864.

Whatever the rule prevailing with regard to grand juries, there is no support in the decided cases for any proposition that a defendant—prospective, past, or present—may decline to appear or refuse to take the oath before a congressional committee. He may of course assert his privilege against self-incrimination in regard to questions asked of him but he may not refuse to take the witness chair at all. The reason plainly is that a congressional committee is not a court, it has no power to try, convict, and sentence one, and its function is not to discover evidence for such purposes. Its function is to carry on inquiries to determine the necessity of legislation and to review the carrying-out of enacted legislation.

McGrain v. Daugherty, 273 U.S. 135 (1926), clearly establishes that a committee of one House of Congress may compel a private individual to appear before it and to give testimony provided that the inquiry is part of an exercise of the legislative function conveyed to Congress by the Constitution and that the process is being employed to obtain testimony for that purpose. The power of inquiry, the Court said, is "a necessary and appropriate attribute of the power to legislate" and is in fact to be treated "as inhering in it" for purposes of legislating and oversight with regard to enacted law. *Id.*, at 175. Specifically, the Court observed, the legislative function of the inquiry was clearly manifested because "the subject to be investigated was the administration of the Department of Justice—whether its functions were being properly discharged or were being neglected or misdirected, and particularly whether the Attorney General and his assistants were performing or neglecting their duties in respect of the institution and prosecution of proceedings to punish crimes and enforce appropriate remedies against the wrongdoers—specific instances of alleged neglect being recited. Plainly the subject was one on which legislation could be had and would be materially aided by the information which the investigation was calculated to elicit. This becomes manifest when it is reflected that the functions of the Department of Justice, the powers and duties of the Attorney General and the duties of his assistants, are all subject to regulation by congressional legislation, and that the department is maintained and its activities are carried on under such appropriations as in the judgment of Congress are needed from year to year." *Id.*, 177-178.

The same language could be used in connection with the CIA and Congress and the responsibilities of the Subcommittee.

Daugherty it should be noted, who was convicted of contempt for refusing to appear before the committee pursuant to a subpoena, was a private citizen, the brother of the Attorney General and his actions were at the same time subject to other investigations preparatory to the bringing of criminal charges which were in fact brought. Any suggestion that Congress could not inquire into matters which were the subject of judicial proceedings would have to apply to future judicial proceedings as well as pending. "If such were the reach of 'due process' it would turn a witness' privilege against self-incrimination into a self-operating restraint on congressional inquiry . . . and would in effect *pro tanto* obliterate the need for that constitutional protection." *Hutcheson v. United States*, 369 U.S. 599, 613 n. 16 (1962).

But we need not pursue that principle from the *Daugherty* opinion inasmuch as any argument that the pendency of judicial proceedings undercuts the congressional power of inquiry is entirely negatived by *Sinclair v. United States* 279 U.S. 263 (1929), and *Hutcheson v. United States*, *supra*. *Sinclair* concerned an investigation into the circumstances of the execution of oil leases from the United States while there was

pending a civil suit seeking to cancel the leases on allegations of fraud. The Court rejected the argument that the pendency of the suit prevented the congressional inquiry. "It may be conceded that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits; but the authority of that body directly or through its committees, to require pertinent disclosures in aid of its own constitutional power, is not abridged because the information sought to be elicited may also be of use in such suits." 279 U.S., 295. *Sinclair* was applied in a pending criminal proceeding context in *Hutcheson*, where indictments were pending in state court and the committee inquiry was directed to some of the same issues. 369 U.S., 613.

Justice Harlan observed in *Hutcheson* that petitioner's claims of prejudice in the conduct of the state trial possibly arising out of his appearance before the congressional committee was no defense to the charge of contempt for refusing to cooperate with the committee. If his appearance should result in prejudice, the time to raise that issue and for the courts to review it would be upon appeal of the state criminal conviction, inasmuch as it could not be known at the time of the contempt before the committee whether in fact he would be prejudiced. *Id.*, 612-613. It may be that no prejudice would result. If it did, the conviction could be set aside on that ground, as was the case in the much cited *Delaney v. United States*, 199 F. 2d 107 (C.A. 1 1952).

It therefore appears that Mr. Liddy's position as a convicted defendant and a possible future defendant would not suffice to excuse his appearance. A refusal to take the oath and be sworn, it is established in the few cases dealing with this fact situation, constitutes under 2 U.S.C. sec. 192 both a willful default and a refusal to answer. *Eisler v. United States*, 170 F. 2d 273, 279-281 (C.A.D.C. 1948); *United States v. Hintz*, 193 F. Supp. 325, 327-328 (D.C.H.D. Ill. 1961). Any witness, of course, has the constitutional right to invoke his privilege against self-incrimination and refuse to answer when indeed he would be incriminated. But he must appear, he must take the stand, he must be sworn, and he must assert the privilege as to each incriminating question which is asked of him. "If the Committee was to be at all effective in bringing to Congress' attention certain practices in the labor-management field which should be subject to federal prohibitions, it necessarily had to ask some witnesses questions which, if truthfully answered, might place them in jeopardy of state prosecution. Unless interrogation is met with a valid constitutional objection 'the scope of the power of (congressional) inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.' [Quoting *Barenblatt v. United States*, 360 U.S. 109, 111 (1960)]. And it is not until the question is asked that the interrogator can know whether it will be answered or will be met with some constitutional objection. To deny the Committee the right to ask the question would be to turn an 'option of refusal' into a 'prohibition of inquiry', . . . and to limit congressional inquiry to those areas in which there is not the slightest possibility of state prosecution for information that may be divulged." *Hutcheson v. United States*, *supra*, 619. It is clear from the entire opinion that the references to "state prosecution" resulted solely from the fact that the pending indictments were in state court and that no federal law apparently reach the subjects of the state indictments. The language evinces no intention to make a distinction between state and federal incrimination with regard to pending proceedings.

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

The previous question was ordered.

The SPEAKER. The question is on the resolution.

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

Mr. NEDZI. 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.

The vote was taken by electronic device, and there were—yeas 334, nays 11, answered "present" 1, not voting 88, as follows:

[Roll No. 442] YEAS—334		
Abdnor	Dent	Jones, Tenn.
Abzug	Derwinski	Jordan
Adams	Devine	Kastenmeier
Alexander	Dickinson	Kazan
Anderson,	Downing	Kemp
Calif.	Drinan	Ketchum
Anderson, Ill.	du Pont	King
Andrews,	Eckhardt	Koch
N. Dak.	Edwards, Calif.	Kuykendall
Annunzio	Ellberg	Kyros
Archer	Erlenborn	Latta
Arends	Esch	Leggett
Armstrong	Evans, Colo.	Lent
Ashley	Evins, Tenn.	Long, La.
Aspin	Fascell	Long, Md.
Bafalis	Findley	Lott
Baker	Fish	Lujan
Bauman	Fisher	McClory
Beard	Flood	McCloskey
Bennett	Flowers	McCollister
Bergland	Ford, Gerald R.	McCormack
Bevill	Ford,	McDade
Blester	William D.	McFall
Bingham	Forsythe	McKay
Boggs	Fountain	Macdonald
Boland	Frenzel	Madden
Brademas	Frey	Madigan
Breaux	Froehlich	Mahon
Breckinridge	Fulton	Mallary
Brinkley	Gaydos	Mann
Brooks	Gettys	Martin, Nebr.
Broomfield	Gialmo	Martin, N.C.
Brown, Calif.	Gibbons	Mathias, Calif.
Brown, Mich.	Gilmian	Matsunaga
Broyhill, N.C.	Ginn	Mazzoli
Broyhill, Va.	Goldwater	Meeds
Buchanan	Gonzalez	Melcher
Burgener	Goodling	Metcalfe
Burke, Fla.	Grasso	Mezvinsky
Burke, Mass.	Green, Pa.	Milford
Burleson, Tex.	Griffiths	Miller
Burlison, Mo.	Gross	Minish
Butler	Grover	Mink
Byron	Gude	Mitchell, Md.
Camp	Gunter	Mitchell, N.Y.
Carey, N.Y.	Guyer	Mizell
Carney, Ohio	Haley	Mollohan
Casey, Tex.	Hamilton	Montgomery
Cederberg	Hammer-	Moorhead,
Chamberlain	schmidt	Calif.
Clancy	Hanley	Morgan
Clark	Hansen, Wash.	Mosher
Clausen,	Harvey	Moss
Don H.	Hastings	Murphy, N.Y.
Clay	Hawkins	Myers
Cleveland	Hays	Natcher
Cochran	Hebert	Nedzi
Cohen	Hechler, W. Va.	Nelsen
Collier	Heckler, Mass.	Nichols
Collins, Ill.	Heinz	Obey
Collins, Tex.	Helstoski	O'Brien
Conable	Henderson	O'Hara
Conlan	Hicks	O'Neill
Conte	Hillis	Owens
Corman	Hinshaw	Parris
Cotter	Hogan	Passman
Coughlin	Holtzman	Patten
Cronin	Hosmer	Perkins
Daniel, Dan	Howard	Pettis
Daniel, Robert	Huber	Peyser
W., Jr.	Hungate	Pickle
Daniels,	Hunt	Poage
Dominick V.	Hutchinson	Powell, Ohio
Danielson	Ichord	Preyer
Davis, Wis.	Jarman	Price, Ill.
de la Garza	Johnson, Calif.	Price, Tex.
Dellenback	Johnson, Pa.	Pritchard
Delums	Jones, Ala.	Quie
Denholm	Jones, N.C.	Rallsback
Dennis	Jones, Okla.	Randall

Rangel	Shipley	Vander Jagt
Rarick	Shoup	Vankl
Rees	Shriver	Vigorito
Regula	Shuster	Waggoner
Reuss	Sikes	Walde
Rhodes	Skubitz	Wampler
Riegle	Smith, N.Y.	Ware
Rinaldo	Snyder	Whalen
Roberts	Spence	White
Robinson, Va.	Staggers	Whitehurst
Robison, N.Y.	Stanton	Whitten
Rodino	J. William	Widnall
Roe	Stanton,	Wiggins
Rogers	James V.	Williams
Roncalio, Wyo.	Stark	Wilson, Bob
Roncalio, N.Y.	Steed	Wilson,
Rooney, Pa.	Steelman	Charles H., Calif.
Rose	Steiger, Wis.	Wilson, Charles, Tex.
Rosenthal	Stokes	Winn
Roush	Stubblefield	Wright
Rousselot	Stuckey	Wyatt
Roy	Studds	Sullivan
Royal	Sullivan	Symington
Ruppe	Symington	Wylie
Ruth	Taylor, Mo.	Taylor, Mo.
Ryan	Taylor, N.C.	Yates
Sandman	Teague, Calif.	Young, Alaska
Sarasin	Thompson, N.J.	Young, Fla.
Sarbanes	Thompson, Wis.	Young, Ga.
Satterfield	Thone	Young, Ill.
Saylor	Thornton	Young, S.C.
Scherle	Tierman	Young, Tex.
Schneebell	Towell, Nev.	Zablocki
Schroeder	Treen	Zion
Sebelius	Ullman	Zwach
Seiberling	Van Deerlin	

NAYS—11

Blackburn	Edwards, Ala.	Quillen
Burton	Flynt	Steiger, Ariz.
Carter	Johnson, Colo.	Symms
Duncan	Landgrebe	

ANSWERED "PRESENT"—1

Ashbrook

NOT VOTING—88

Addabbo	Fraser	Minshall, Ohio
Andrews, N.C.	Frelinghuysen	Moakley
Badillo	Fuqua	Moorhead, Pa.
Barrett	Gray	Murphy, Ill.
Bell	Green, Oreg.	Nix
Blaggi	Gubser	Patman
Blatnik	Hanna	Pepper
Bolling	Hanrahan	Pike
Bowen	Hansen, Idaho	Podell
Brasco	Harrington	Reid
Bray	Harsha	Rooney, N.Y.
Brotzman	Holifield	Rostenkowski
Brown, Ohio	Holt	Runnels
Burke, Calif.	Horton	St Germain
Chappell	Hudnut	Sisk
Chisholm	Karth	Slack
Clawson, Del	Keating	Smith, Iowa
Conyers	Kluczynski	Steele
Crane	Landrum	Stephens
Culver	Lehman	Stratton
Davis, Ga.	Litton	Talcott
Davis, S.C.	McEwen	Teague, Tex.
Delaney	McKinney	Udall
Diggs	McSpadden	Veysey
Dingell	Mailiard	Walsh
Donohue	Maraziti	Wolf
Dorn	Mathis, Ga.	Wydler
Dulski	Mayne	Yatron
Eshleman	Michel	
Foley	Mills, Ark.	

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

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

There was no objection.

LITTLE CIGAR ACT OF 1973

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules,

I call up House Resolution 503 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 503

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7482) to amend the Federal Cigarette Labeling and Advertising Act of 1965 amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar", 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. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After passage of H.R. 7482, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1165, and it shall then be in order to consider the said Senate bill in the House.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes to the minority member, the distinguished gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 503 provides for an open rule with 1 hour of general debate on H.R. 7482, a bill to amend the Federal Cigarette Labeling and Advertising Act of 1965 amended by the Public Health Cigarette Smoking Act of 1969 by defining the term "little cigar."

House Resolution 503 provides that after the passage of H.R. 7482 the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1165, and it shall be in order to consider S. 1165 in the House.

The Federal Cigarette Labeling and Advertising Act prohibits broadcast advertisements for cigarettes. However, the act does not ban advertisements for little cigars. The purpose of H.R. 7482 is to amend the act to prohibit the advertising of little cigars on television, radio and cable television. The bill defines the term "little cigar" to mean any roll of tobacco, other than a cigarette, wrapped in leaf tobacco or any substance containing tobacco of which 1,000 weigh not more than 3 pounds.

Mr. Speaker, the 1973 report by the Department of Health, Education, and Welfare makes a finding that smoking little cigars may result in health defects similar to those associated with smoking cigarettes. I urge adoption of House Resolution 503 in order that we may discuss and debate H.R. 7482.

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

Mr. Speaker, today we are considering House Resolution 503 which provides for

the consideration of H.R. 7492, the Little Cigar Act, under an open rule with 1 hour of general debate. This rule also makes it in order to insert the House-passed language in the Senate bill, S. 1165.

The primary purpose of H.R. 7482 is to amend the Federal Cigarette Labeling and Advertising Act in such a way as to prohibit the advertising of little cigars on television, radio, and cable TV.

The labeling requirements and ban on broadcast advertising which are applicable to cigarettes under the Federal Cigarette Labeling and Advertising Act do not apply to the little cigars.

The bill contains a definition of a "little cigar." It is defined to mean any roll of tobacco, other than a cigarette, wrapped in leaf tobacco or any substance containing tobacco of which 1,000 weigh not more than 3 pounds.

The committee report states that—

To permit the continued advertising of little cigars on the electronic mass media would promote the impression that it is safer to smoke little cigars than cigarettes.

Little cigars do not require a warning label and their use has steadily increased.

The committee report states there will be no cost involved in this legislation.

Mr. Speaker, I urge the adoption of this rule in order that the House may debate H.R. 7482.

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

Mr. LONG of Louisiana. Mr. Speaker, I have no requests for time, and 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. 7482) to amend the Federal Cigarette Labeling and Advertising Act of 1965 amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar," and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

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. 7482, with Mr. HAMILTON 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 Tennessee (Mr. KUYKENDALL), will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I will be very brief. I thought that the gentleman on the Committee on Rules explained the bill very well. It is a very brief bill. It just prohibits the advertising on radio and television of little cigars the way we prohibited the advertising of

cigarettes. The reason for that is that some of the tobacco companies developed little cigars which are the same size and shape as cigarettes and began advertising them on TV and radio and cable. This advertising makes them really appealing to the youth of this land. As we all know, they watch TV and listen to the radio.

Three Senators on the other side called in all of the tobacco companies making little cigars and asked them to voluntarily stop this advertising. All of them but one said they would. That one had not begun advertising at the time. That has been some 4 or 5 months ago. They have been on radio and TV now for about 2 or 3 months, so they are caught up on their advertising. Anybody who has watched TV recently has seen the advertisements for these little cigars.

Mr. CHAIRMAN, it is recognized that little cigars have the same potential for harm that the cigarette does. They are about half the price of cigarettes. The tax on cigarettes is \$4 per thousand, and I believe for little cigars it is 75 cents per thousand. This also makes it more attractive, in that they do not cost nearly as much. There is no additional cost to the Federal Government in any way on this bill.

I believe this explains the bill.

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

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

Mr. GROSS. I thank the gentleman for yielding. Does the Committee on Interstate and Foreign Commerce have any other legislation stored up over there to save some of us from ourselves?

Mr. STAGGERS. I will say to the gentleman from Iowa that is a theoretical question, and I do not know how I would answer it. I do not know what the gentleman is afraid of or what he is trying to get away from.

Mr. GROSS. I am not trying to get away from anything. I am just trying to find some people in this Government in Congress, and the executive branch of Government, who will let me live within the law and let me live the way I want to live. If I elect to die from smoking cigarettes, or whatever, or should become a basket case of one kind or another from smoking cigarettes, little cigars or big cigars, why do not they let me do it?

Mr. STAGGERS. The gentleman can do it. We are not stopping him from it. We are trying to help the children of America.

Mr. GROSS. This is interfering with my life.

Mr. STAGGERS. We are not interfering with the gentleman's life one bit. We are not interfering one bit with his life nor are we interfering with the life of any adult in this Nation. We are trying to help the youth of America. The gentleman can do as he pleases. We are not trying to harm him or stop him in any way. This is for the benefit of the children the advertising of these little cigars would otherwise reach.

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

Mr. CHAIRMAN, I generally approve of the thrust of this legislation because I do applaud the idea of the elements of the

industry getting together and taking action voluntarily, which I wish could have prevented this legislation entirely.

However, if the amendment which is to be offered by the gentleman from New York (Mr. MURPHY) is accepted, I shall and I know other people who feel the same way as I do shall support this legislation. However, without the said amendment I see no way that I can support the legislation.

The amendment will be this. The reason the understanding in the industry was not 100 percent, and the reason the legislation ended up in our lap instead of the situation begin taken care of in a voluntary regulation, as is true in so many other instances, is because the large elements of the tobacco industry had completed the introduction of their little cigars. There was one large cigar company involved. The other little cigars were all introduced by cigarette companies, but the one cigar company involved is not yet through with its introduction, so we are urging, the gentleman from New York and others, that we simply make this 30 days from enactment provided in the legislation to be 90 days from enactment so that all the different elements of the tobacco industry will be starting on pretty much a break-even basis.

Certainly the Congress and the courts have decided that we have a place in the controlling of advertising of tobacco on television. I for one do not think we have any such place, but I think we have to accept that the law says we do.

The inexcusable thing for us in Congress is to be caught in a situation where we are taking part in an intraindustry competitive situation, and that is where one element of the industry is through with their introduction and they want to cut it off on a voluntary basis before another element of the same industry gets through with their introduction.

So upon the introduction and acceptance of the amendment to be offered by the gentleman from New York, I urge the adoption of this legislation. Without the acceptance of the amendment to be offered by the gentleman from New York (Mr. MURPHY) I shall oppose this legislation as putting us unwise in an intraindustry squabble which we should not be in.

Mr. STAGGERS. I yield to the gentleman from Massachusetts (Mr. MACDONALD) such time as he may consume.

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

Mr. CHAIRMAN, I would like to point out to my colleague, the gentleman from Tennessee as well as to my colleague, the gentleman from New York that the company to which the gentlemen have reference, namely the Continental Cigar Corp., is not involved in any squabble with any other segment of the industry at this time.

As the author of the bill here in the House I have been informed by their president and their general manager that they support the legislation, that they have no need to be protected, and indeed they have had nothing to do with the sponsorship of this legislation either in a positive or a negative sense.

What the bill was intended to do, what

it does do, is to treat all little cigars in the same way, whether they be called little cigars or regular cigarettes. The Public Health Department, the Surgeon General, has put it out that these little cigars are indeed deleterious to the health of the citizens of the United States; that when used, and if habit forming to the youth of the country, will in the long run be just as injurious to the health of the United States as were cigarettes which were banned from advertising on radio and TV.

So, if the intention of the gentlemen is to protect that company, the company, I repeat, has already indicated to me definitely that they sponsor this legislation and therefore oppose the amendment.

Mr. CHAIRMAN, I rise in support of H.R. 7482, a bill to amend the Federal Cigarette Labeling and Advertising Act so as to prohibit the advertising of so-called little cigars on television, radio, and cable television.

The history of little cigars is relatively brief. Just 2 years ago, the R. J. Reynolds Tobacco Co. began test marketing a little cigar called Winchester, using television as its primary marketing tool. Winchesters were packaged like cigarettes, 20 to a box, they looked like cigarettes except that they had brown wrappers instead of white, they were sold at cigarette counters, they needed no warnings printed on their packages about dangers to the users' health, and they were cheaper than cigarettes. The conclusion was unmistakable, that smokers who felt apprehensive about smoking cigarettes could now switch to these little cigars, feel reassured about dangers to their health, and save money besides.

The Federal Trade Commission recommended that little cigars be treated as cigarettes for purposes of the Federal Cigarette Labeling and Advertising Act. The Department of Health, Education, and Welfare reported that tar and nicotine levels in little cigars are similar to levels found in cigarettes. Despite the absence of definitive medical studies, which it is estimated could take 10 to 15 years, there was strong evidence presented to the committee that if these little cigars were advertised on television and radio, the end result would be to subvert the intent of Congress as expressed in the Public Health Cigarette Smoking Act of 1969.

Several Members of the other body—Senators MAGNUSON, Moss, and COOK—undertook to persuade the manufacturers of little cigars to refrain from advertising them on television and radio. All but one manufacturer agreed to stop such advertising. The lone holdout, Consolidated Cigar Corp., maker of a little cigar called Dutch Treat, had not at that time introduced its product on radio and TV, and desired to become fully competitive with those companies who had gotten a head start. As a result, in the period between June 19 when the Interstate and Foreign Commerce Committee reported H.R. 7482 and today, Consolidated Cigar has flooded the commercial TV channels with ads for Dutch Treat little cigars. So unless this legislation is enacted, the door for Dutch Treats and for new brands of little cigars will be left open, and we will see a return to television of

all kinds of romantic ads aimed at young people and urging them to take up smoking little cigars. If cigarette advertising should be barred from television and radio, so should these so-called little cigars. The sooner the House acts, the sooner this unintended loophole can be closed.

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

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, let me agree with the gentleman that under the law—which I do not happen to agree with—the separation of this little cigar from the rest of the cigarettes is something that I believe the purpose of the bill is to prevent. As I said, I am for that legislation, but I have a message on my desk from the parent company of the little cigar company as recently as yesterday afternoon urging me not only to support this amendment, but to vote against the bill, period.

I told these people when they took this position many months ago, that as far as I was concerned, I could not support a separation of this small cigar from cigarettes, but I would try to see that justice was done at the marketplace.

This is the only point here. All in the world we are asking be done is that this committee not be used, because I, in my colloquy in committee with a Member of the other body who was part and parcel of the agreement that was reached prior to the necessity of the legislation, asked him this question: "Do you think if this other company had not been through with its introduction, that they would have joined in any agreement?"

He said, "No, they would not have."

So, all I am asking is that we avoid now and in the future being used by industry in squabbles inside the industry. I join with the gentleman from Massachusetts in supporting the basic idea of this legislation, but let us not get ourselves caught in the position where we have a growth of movement from one part of an industry using us to compete against the growth of some other part of the industry.

Mr. MACDONALD. Mr. Chairman, I agree with the gentleman that this body should not be used by any industry. I repeat, as sponsor of this bill, that I feel that I am not being used by any segment of the industry. Indeed, if I thought I was, I would not oppose the Murphy amendment and I would oppose this bill because no one here in the Congress wants to be used by any segment of any industry.

I repeat, I have been told by the company the gentleman has reference to that they support the legislation and have no objection to its passage.

Mr. KUYKENDALL. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, a few years ago the Surgeon General came to a momentous conclusion that heavy smoking of cigarettes was bad for the

health. This came as no great surprise. Most athletic coaches had tried to impress this upon athletes. Most heavy smokers readily admitted that they were doing themselves no good.

Regardless of an almost universal recognition that cigarettes were a bad deal, most people took a whirl at using them for at least a while. The cigarette companies kept up a drum fire of advertising over the years. Before television you would see some brand of smoke leap out at you from a billboard. Just in case our troops overseas were not in enough trouble, the Red Cross and other organizations made sure they had enough cigarettes.

Once the tablets had been sent down from HEW and the pronouncement was official, it could be expected that Congress would react in some fashion. What did we do? Did we ban tobacco? Did we ban subsidies? Did we ban even cigarettes? Did we deny these products the right to engage in interstate commerce? No, none of these. We ducked the issue by requiring that a package of cigarettes carry a warning which no one would either read or heed.

As pressure continued from the anti-cigarette forces and more action seemed necessary, we ducked again. Cigarettes were banned from advertising on TV or radio. This would not and did not stop all other forms of advertising. Magazines and newspapers were replete with cigarette ads. Panels on trucks and in the buses children ride to school—at least in the District—still urged you to try a Lark or whatever.

All this time cigars went along without interference. They had been spared by the Surgeon General because he was convinced for some reason that cigar smokers generally did not inhale the smoke. So when cigarettes could no longer be seen on TV, it followed that the tobacco companies came forth with something that looked like a sunburned cigarette, was packaged like a cigarette and would be smoked like a cigarette only it was to be called a little cigar. Surprisingly enough the Internal Revenue Service treated them as cigars for tax purposes. And maybe that should settle it. TV assumed they were cigars because it would hardly have been to broadcasters' advantage to assume otherwise.

Now a whole new battle erupted. The anticigarette forces claimed that these things were really cigarettes dressed up to fool people. And even if they were not really cigarettes, they were so constructed that the poor misguided public would inhale them and consequently succumb in the same manner as true cigarette smokers.

What did the Surgeon General, who started all this fuss in the first place have to say? Well, he said that cigar tobacco really is just as bad as cigarette tobacco and if a person were to smoke cigars in the same manner as cigarettes—meaning, I guess, inhaling several packs a day—they would indeed do him harm. FTC, which is always ready to get into the act, decided that whether these short brown smokes were cigarettes or not they would define them to make them so.

Most of the tobacco companies agreed to get off the TV tube. No wonder—they had enjoyed the benefits of a massive,

market-building exposure. To leave at that point would only save them money as it had done in the case of the cigarette ads. One company, however, was just starting its campaign to popularize a little cigar called Dutch Treats. This company felt it was been hampered by these developments and declined to play the game. Because Consolidated would not be bulldozed into compliance by unofficial congressional pressure, the other body approved a bill to get at this one company.

Now our committee brings to you a similar bill to ban TV and radio advertising of the things whatever they may be.

This latest chapter in the long and useless history of cigarette legislation should teach us something. We in Congress have wasted countless hours going back as far as 1964 trying to decide just what we should do or not do about smoking. None of this effort has had any influence whatsoever upon the habits of the population. If cigarettes are bad, why is it that they are only bad on TV but not in a magazine? If the TV influence is as all-pervasive as we have been told, why is it that without TV advertising the use of cigarettes has risen—not diminished? Should we ban cigarettes entirely? Should we ban tobacco products, entirely? Should we decide that subsidies for growing the stuff are inconsistent with everything else we are doing about tobacco?

Certainly the action on this bill today will not answer all the questions which I have suggested. It will be one more disconnected piece in a jigsaw puzzle that could just as well be left in the box. I recommend that the House reject H.R. 7482.

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

Mr. DEVINE. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. I should like to have the attention of the gentleman from Massachusetts (Mr. MACDONALD). I in no way doubt his sincerity here. In this case he and I have an honest difference of opinion as to what is going on in this particular industry.

As I say, I have a note on my desk asking that I go against the entire legislation, which I shall not do, with this amendment.

It so happens I have been in discussions with both sides on this particular problem. I want to go on record, as I say, urging the adoption of the amendment that will be offered by the gentleman from Massachusetts.

It may be that in working out these industry agreements in the future this particular colloquy and this particular incident will cause them to do a little more thorough job in working out their disagreements. I hope they will do that in the future.

We have a difference of opinion. I feel this is a case where this amendment is necessary.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. VAN DEERLIN), a member of the committee.

Mr. VAN DEERLIN. Mr. Chairman, the gentleman from Iowa (Mr. Gross) asked how much more legislation was

being stored up in our committee to protect him from himself.

I have no objection to participating in legislation to protect Mr. Gross from himself. If I thought this legislation would genuinely achieve that end, then I would support it more heartily than I do.

On the basis of what we have accomplished under the ban on cigarette advertising, the best thing we could do for little cigars would be to lump them in with the general legislation. It happens that when we passed the ban on cigarette advertising back in 1969, the average yearly per capita consumption of cigarettes in this country was 3,985. Today it is 4,040.

The only conclusion to be drawn from this is that by banning the advertising of the product on television and on radio, we have whetted even further the appetite of Americans for cigarettes.

One reason for this may well be that in knocking cigarette advertising off the air, we also put a ban on what was becoming a very effective counter influence on Americans—the very smart anti-cigarette advertising program sponsored by the American Cancer Society.

In 1969 the broadcast stations of America were giving to the Cancer Society the equivalent of about \$50 million in advertising a year, on a ratio of about one anticigarette commercial for every four paid commercials. With the abandonment of that counter advertising requirement, the free time accorded to the Cancer Society dwindled from \$50 million per year to about \$4 million per year. This is the estimate of the Cancer Society itself.

There is another aspect of this legislation which has bothered me. Recently we had on the floor legislation for the Agriculture Department, which included about \$160,000 a year for promoting American cigarette sales overseas—promotion for cigarettes which, of course, do not contain a label warning about health. I raised the point that this was rather a cynical adventure in the use of public funds.

We see the use of money out of the Treasury to promote cigarette sales overseas, when we have taken steps in this country to prevent Americans from smoking. As long as we continue to practice this double standard, I shall oppose the ban on cigarette sales.

However, if we are going to keep cigarettes off the air, I believe we ought also to ban little cigars, which unfortunately have been promoted by the industry as a sort of a substitute for cigarettes. Therefore, I shall join in supporting the legislation which, although it does not fully protect the gentleman from Iowa from himself, takes at least a short step in that direction.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, the Little Cigar Act of 1973 will be reported in the newspapers as another example of the Congress taking action against tobacco. And yet, the truth of the matter is that the tobacco industry actively supported this measure. The irony of this apparent contradiction between the legislation and its support is

easily explained in one word—responsibility.

Too many people leap too easily to the foregone conclusion that people who grow tobacco and people who manufacture it are unrelenting opponents of any measure involving the smoking and health issue. The facts are otherwise.

The Little Cigar Act of 1973 calls for Congress to close an obvious loophole in the law and prohibit the advertising of little cigars on the broadcast media. In 1969 Congress passed similar legislation to ban the broadcast advertising of cigarettes. It may come as a surprise to many of the general public that the industry volunteered to go off the air waves but because of antitrust laws was not permitted to do this freely. Instead, Congress had to prohibit advertising by law.

In a similar fashion, when criticism developed to the broadcast advertising of little cigars the two cigarette companies who were manufacturing them, R. J. Reynolds and P. Lorillard, the latter of which operates a large plant in my district, agreed to drop broadcast advertising of the product and the rest of the little cigar industry, with one exception, agreed to subscribe to this form of voluntary self-regulation. The solitary holdout I now understand has also announced that it has come back to the fold and will join the rest of the member companies but that decision was too late to preclude congressional action. The other body acted to prohibit little cigars being advertised on the broadcast media and the House took similar action. Once again, what could have been self-regulation had to be handled by congressional regulation.

I might also point out, Mr. Chairman, that the record of responsibility displayed by the tobacco community in both instances stems from a fundamental policy which also may be considered to be more responsible than the dedicated foes of tobacco will admit and it is this: Smoking of tobacco is an adult practice, not for children and young people. This fundamental belief has motivated the industry over the years to avoid advertising and promotion to the youth market. That is the reason for the voluntary attempt to remove cigarette advertising from radio and television and that is the motivation for the current effort to voluntarily remove little cigar advertising from the same media.

Mr. Chairman, I wish to agree with the gentleman from California (Mr. VAN DEERLIN) that the real point involved in this bill is a simple point. It is not the question of whether little cigars are less harmful to one's health than cigarettes. It is simply that the little cigar looks like a cigarette, it is packaged like it, and it has relatively the same volume. The weight limitation is identical to that prescribed by the Internal Revenue Service for cigarettes. It is often merchandised in a machine, just as a cigarette. In every way it violates the spirit of the Cigarette Labeling Act, that is, that it would encourage smoking by young people. Therefore, if the cigarette is going to be banned under the Cigarette Labeling Act, I agree with the gentleman that little cigars ought to be banned

also. There is no question that the little cigar is designed to compete with the cigarette.

As to the point of whether one company has not had a fair chance at the market on this, I believe we should note that the other body passed the bill on April 30. We held hearings in the Committee on Commerce on May 22, through May 24, and we voted the bill out of the Committee on Commerce on June 19. So it has been 130 days since the other body acted, more than 100 days since the hearings, and almost 90 days since the Committee on Commerce acted, and the Dutch Master little cigar has been advertised on TV throughout that entire period of time.

So I believe any inequity that may have occurred has certainly been eliminated by that period of time and they have had the opportunity to launch their advertising campaign and get on an even footing with other cigar companies.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume. I will only take a minute or less.

Mr. Chairman, I would just like to say that the other body passed this bill unanimously. This bill is identical to the Senate bill.

Mr. Chairman, I hope we do not have any amendments, and if there is any amendment, I hope it will be defeated so that this can go to the President to be signed right away. With that, Mr. Chairman, I have no further requests for time, and I suggest the reading of the bill.

Mr. KUYKENDALL. Mr. Chairman, I yield such time as he may use to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise today to speak in support of H.R. 7482, the Little Cigar Act.

I am sure you are all familiar with previous congressional action in this area to prohibit the advertising of cigarettes on the broadcast media. At the time we first considered such a ban, I held strong reservations about the appropriateness of such action, and I still question this decision.

However, today we are faced with the consideration of legislation necessitated by the refusal of one company to join with the manufacturers of other little cigar products in abstaining from the advertisement of such products on the broadcast media.

In 1971, as the result of growing public interest and in response to recommendations by the FTC and HEW, R. J. Reynolds and P. Lorillard voluntarily agreed to withdraw their little cigars, Winchesters and Omegas, from the broadcast media. Other companies followed suit and the necessity for legislative action was diffused.

At the time of this decision, both Members of the Congress and consumer groups applauded the decision of the tobacco industry in its responsible action in the public interest.

However, the refusal of one company to withdraw its product forced the Congress to take action.

During hearings before the House Committee on Interstate and Foreign Commerce, representatives of the tobacco industry testified in support of this leg-

islation. They recognized that the voluntary agreements were jeopardized by the refusal of one company and placed the industry's efforts in question.

The tobacco industry has consistently demonstrated a willingness to comply with Federal guidelines in a recognition of its public responsibilities. The industry has proven its ability to live with the advertising ban on cigarettes and has highlighted the low tar and nicotine content of its products in the print media, again in response to public awareness of health interest.

I would strongly urge my colleagues to join with me in supporting this legislation so that an equitable market structure will be insured to all manufacturers of cigarette-type smoking products. With the passage of this bill, manufacturers of traditional cigars will be spared further injury to their business from the confusion and controversy surrounding the little cigars.

While I regret the necessity of this legislation, I do believe that it serves the best interests of both the consuming public and the tobacco industry. Congress passed the law in 1969 constraining the right of the cigarette manufacturers to advertise products on the electronic media. Congress expressed its intent forcefully in this action. The industry has shown themselves willing and able to live with that law. H.R. 7482 closes a loophole present in the law that has undermined the scope of Public Law 91-222, adversely affected the industry and posed problems for the consumers. Clearly, Congress can best serve the interests of its own legislation, the consumer and tobacco industry by passing H.R. 7482.

Mr. KUYKENDALL. I have no further requests for time, Mr. Chairman.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 7482

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 "Little Cigar Act of 1973."

Sec. 2. Section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331-1340) as amended by the Public Health Cigarette Smoking Act of 1969 is amended by inserting the following new subsection:

"(7) The term 'little cigar' means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which one thousand units weigh not more than three pounds."

Sec. 3. Section 6 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331-1340) as amended by the Public Health Cigarette Smoking Act of 1969 is amended by inserting the words "and little cigars" after the word "cigarettes".

Sec. 4. The amendment made by this Act shall become effective thirty days after the date of enactment.

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

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

There was no objection.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: on page 2, line 11, strikeout "thirty days" and insert "ninety days".

Mr. MURPHY of New York. Mr. Chairman, the earlier colloquy on this legislation brings out several points which have resulted in misconceptions to the House.

The Senate did pass this particular bill unanimously. But the Senate did so without holding hearings and without defining and getting an answer from the Public Health people in this country with respect to a very significant point. This point came up in the Surgeon General's report to the Congress and to the country when it was determined that cigarette smoking was injurious to your health.

I supported and voted for the previous legislation, both to put packaging labels on cigarette packages, and also to assist in taking advertising off the public airways for cigarettes.

But the point I want to make is that we found cigarette smoking was injurious to health, but we could not find that cigar smoking was injurious to health, and said so in our report. In fact, in some instances there were indications that cigar smokers had less cancer than nonsmokers.

Then came the legislation we are considering. It was triggered by the cigarette industry because of two things that happened. The cigarette industry was marketing on television a "little cigar" that was using cigarette tobacco, but they called it a "little cigar" and advertised it as such. The cigar industry was marketing a little cigar that used cigar tobacco. This was the primary technical difference between them and this was brought out during days and days of hearings by the cigar industry. Of course, certain arguments from the cigarette industry attempted to counter this difference.

The problem was simple. Was the cigarette industry marketing a little cigar or a little cigarette? The cigarette industry, in fact, was marketing a "little cigar" that had cigarette tobacco in it—in reality a cigarette—and consequently withdrew its advertising from the public airways.

My amendment would do one important thing. Instead of a 30-day cutoff, it asks for a 90-day cutoff. Ninety days is one-half the amount of time that this Congress gave the cigarette industry under similar circumstances. It seems to me we gave the cigarette people 6 months to go off the airways when we enacted the public law requiring that. I am just asking for a 90-day cutoff here, only half the time previously allowed, under similar circumstances.

The cigarette industry with their "little cigar" had many more months to advertise on television and capture the market. The cigar industry was late in coming in with their advertising campaign for a true little cigar made with cigar tobacco. This amendment does equity in granting the cigar people an additional 60 days time; at the end of

that period of time, of course, there would be no more advertising.

I certainly hope the amendment will be favorably considered.

Mr. STAGGERS. Mr. Chairman, I move to strike the last word, and I rise to oppose the amendment offered by the gentleman from New York (Mr. MURPHY). I shall not take too long, hopefully.

Mr. Chairman, I want to say that the two gentlemen who have spoken for the amendment are two of the finest gentlemen in this Congress, and certainly most of the time we agree on most all of the propositions that are for the people and for the good of our Nation. I want to compliment both of these gentlemen for the work that they have done not only on this bill that is before us, but for their people.

So, Mr. Chairman, I rise reluctantly to oppose this amendment.

I do this because I think it is in the best interest of our country to do so.

I would point out that the hearings that were held by the Senate concerning the little cigars took place early in 1972, and most of the manufacturers of little cigars testified, and that was the basis for this large amount of testimony that was taken at that time. The other body acted early in 1973 on the testimony that was taken before their committee. And, as I say, there was a lot of testimony.

When this bill was first passed in the other body the cigar manufacturers came to my office, and we talked, and we asked them if they could not get this matter worked out voluntarily. One of them seemed to think that they had not been treated fairly.

That was back in April. Since then they have had a chance to advertise their product by means of the electronic media. And they have said that they are not against this bill.

I cannot see why we should go to 90 days from 30 days because it will just open up the whole argument again, and then the other manufacturers will be coming back in and saying that they want extra time, and that we are not being fair to them. So I think that 30 days is sufficient. It is for that reason that I think this amendment should not be agreed to.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

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

Mr. VAN DEERLIN. The 30 days that we prescribed we prescribed on June 22 so that very close to 90 days have passed since we reported the bill out of the committee. It seems to me in the interest of gathering support for the passage of this legislation that it would be in the interest of the committee to accept the amendment which is very heavily supported on the other side, and was offered by a venerated Member on this side.

Therefore, Mr. Chairman, I rise in support of the amendment.

Mr. STAGGERS. Mr. Chairman, I would say to the gentleman from California that he has a perfect right to his view. But the argument I make, and I

still make, is that they have had plenty of time to be heard on the electronic media.

I would agree with the gentleman from California about the gentleman who has offered the amendment that he is one of the best liked and one of the hardest working members of our committee.

Mr. VAN DEERLIN. And venerated.

Mr. STAGGERS. And a venerated Member. That is a good term.

But, nevertheless, I do hope that the amendment is voted down, and that we pass the bill as it is now because this bill is an identical bill with the Senate-passed bill.

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

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

Mr. MACDONALD. Mr. Chairman, I would like to join the Chairman in pointing out that the two gentlemen who are supporting this amendment are fine members of the committee, but I also would point out to both of those gentlemen that the two companies that they are trying to protect have already agreed that they do not need any protection, and they are perfectly happy with the bill, and are in fact supporting the bill, and therefore they are opposed to the proposed amendment.

Mr. GROSS. Mr. Chairman, I move to strike the penultimate word.

Mr. Chairman, I carry no torch for the tobacco industry, any part of it. I am not interested in that. I am interested in being able to buy a pack of cigarettes whenever I want them, and I am afraid that right, with this kind of foolishness, is going to be denied sooner or later.

As a matter of fact, I had a letter from the Director of the Veterans' Administration hospital the other day which indicated a nationwide campaign to ban the sale of cigarettes in veterans' hospitals, and establishing severely restricted areas in which smoking is to be permitted.

They are apparently about to deny the right to veterans, who, like myself, acquired the habit in the military service, to even smoke cigarettes in a veterans' hospital. I do not know whether I will ever land in one of these hospitals, but I hope they will let me, should I come in a basket case, die in peace with a cigarette on my lips if that is my choice. I am getting tired of all of this do-good legislation denying the rights of individuals in matters of this kind.

The chairman of the committee talks about the inducement to youngsters to smoke. There are a lot of other inducements on television to do a lot of other things—to see certain types of sex movies, and there is still beer advertising. I suppose if one drank enough beer, it could be injurious to his or her health. Why not ban beer advertising?

Women complain constantly about how badly their feet hurt when they wear sandals long enough on the marble floors in the Capitol and other hard surfaces. Are they injurious to health?

What about contraceptives? When is Congress going to start labeling those? They could be injurious to health.

This business of labeling could be carried on ad infinitum.

They are advertising the chewing of snuff on television, depicting a cowboy

sticking a nice wad of snuff under his upper lip. Then he vaults out of the chute on a steer. Some children might be misled by that, too.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman from Iowa yield?

Mr. GROSS. I yield to the gentleman from Tennessee, but is the gentleman going to make a contribution to the foolishness that is coming out of this committee, including the slogan they caused to be put on every package?

Mr. KUYKENDALL. I assure the gentleman I will make a contribution. They can stop meddling now, because most of that snuff comes out of my district. Anybody who is crazy enough to ride a bull ought not to be exempted from putting snuff in his lip.

Mr. GROSS. I read a story the other day wherein certain so-called medical experts said that coffee may be productive of cancer. How long will it be before this committee brings out a bill to provide the labeling of every coffee container in the country as being injurious to one's health? You can carry this thing on as long as we want to, but I will vote against this bill and all similar bills.

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

Mr. GROSS. I yield to my friends, the gentleman from Idaho.

Mr. SYMMS. I should like to commend the gentleman for his remarks, and I assume he will vote for the amendment that is now before the House.

Mr. GROSS. Vote for what?

Mr. SYMMS. Vote for the amendment that is now before the House.

Mr. GROSS. I am not voting for any part of it.

Mr. SYMMS. I have an amendment which I intended to offer sooner which would absolutely ban advertising from the media completely. Would the gentleman support that?

Mr. GROSS. I do not care whether it bans advertising. I object to this drive that is designed to stop the sale of every product that some jackanapes thinks is going to injure somebody's health.

Mr. SYMMS. I thank the gentleman for yielding.

The gentleman from Iowa will get a chance to vote to repeal this Government monkey business.

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

Mr. GROSS. I yield to the Chairman.

Mr. STAGGERS. I thank the gentleman for yielding.

I would say to the gentleman from Iowa that when we find anything that is causing cancer, we will help to stop it. I hope that I can stay here long enough to see the time when cancer has been eradicated in America, and heart disease and strokes. Those are the three things left. We have conquered nearly everything else.

Mr. GROSS. If the gentleman thinks labeling packages is going to stop that, he is mistaken.

Mr. STAGGERS. It might help. The doctors say that it can.

Mr. GROSS. Some day the Interstate and Foreign Commerce Committee may get around to labeling Lydia Pinkham's tonic for women as being injurious to

someone's health. It will be a great day in the morning when Congress stops trying to regulate the habits, lives, and fortunes of every citizen of this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The question was taken; and on a division (demanded by Mr. MURPHY of New York) there were—ayes 36, noes 40.

Mr. MURPHY of New York. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. McCOLLISTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I speak in opposition to the bill H.R. 7482, the Little Cigar Act. I voted against the measure in committee and am deeply disturbed that it was approved. My objections are based on constitutional grounds. I do not have any strong feelings either for or against little cigars, but I do have strong feelings about first amendment rights. I believe this bill infringes on the first amendment rights of both broadcasters and advertisers.

I feel we are legislatively interfering with the constitutional rights of broadcasters by determining the content of their programming. We also are restricting the freedom of speech of advertisers by prohibiting the dissemination of material about a certain product, a product which is allowed to be manufactured and distributed in this country without restriction.

The bill is discriminatory because it bans advertising of little cigars from the broadcast media and no other media. It appears that because the Federal Government has its regulatory foot in broadcasting's door under the auspices of the Federal Communications Commission, there is no hesitancy to expand governmental authority to other, unrelated areas. We should not forget that the FCC was originally established to allocate broadcast frequencies. Not mandate programming. The Federal Government has no business determining the content of advertising on radio and television.

There seems to be a double standard that is being applied to the press in this country. Congress would not dare ban cigarette and little cigar advertising from newspapers. The cries of civil libertarians and the press would echo throughout the country. Why then is there this willingness to interfere with the operations of the broadcast media?

We seem to be attacking the problem—if there is one—of little cigar use from the wrong angle. If the hazard of little cigars—and cigarettes, for that matter—is so great, why do we not place a ban on the manufacture and distribution of these products?

Testimony before the committee has been inconclusive about the health hazard of little cigars, but based on scanty evidence, this bill was haphazardly approved. This bill also further extends the dangerous precedent set in 1969 when Congress passed a law abolishing cigarette advertising from radio and television. What is going to be the next target? Automobiles? Razors? Every time some self-appointed authority de-

termines that a product could be hazardous to one's health, will the wheels be set in motion to ban those products from being advertised on radio and television. All of this while newspapers, billboards, and magazines will be left free to disseminate all of the information they want—as they should be.

The purpose of the law banning cigarette advertising from radio and television was to help discourage the use of cigarettes. That has not happened. The purpose of this bill supposedly is to help discourage the use of little cigars. There is nothing to indicate the results will be any different. The only effect of the law will be to penalize the broadcast industry—both monetarily from the loss of advertising, and constitutionally.

The ban on the advertising of cigarettes on radio and television has done nothing to improve the health of the people of the United States. And there is absolutely nothing to indicate this bill will have any better results.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would call to the attention of the House the minority views submitted on this legislation by myself. I pointed out in those views that this is not a bill which serves the public interest but rather on the contrary it is a bill which is aimed at attacking a very small part of a rather larger problem. This is not the first time this question has been before the House. Indeed this question has been here before. In an earlier minority view on similar legislation I pointed out that what was really needed was the prohibition of all harmful advertising of tobacco.

This is a curious piece of legislation which comes before us for a very curious reason. It is not legislation which is really aimed at handling a broad problem. Rather it is a piece of spite legislation directed at a particular portion of a particular industry, a particular manufacturer or manufacturers of small cigars within a particular industry, the small cigar industry.

While there is some merit in the bill, the House should be aware of the fact that this legislation is not directed at correcting a real evil but rather it is directed at an imagined wrong toward a Member of the U.S. Congress, not necessarily a Member of this body. It is not even legislation directed toward disciplining an industry for having failed to come to an argument or for having failed to arm an agreement executed by other portions in that industry. It should not be viewed as being a piece of legislation in the public interest, nor should it be viewed as a piece of legislation directed at correcting an evil.

So if any Member thinks he is correcting any evil by voting for this legislation, he should summarily correct his views and realize this legislation will not do anything for the real public interest, except by humoring a Member of the Congress of the United States, not necessarily a Member of this body.

I can recognize the question before the committee and the subcommittee and I am not critical of any Members, I am not critical of my colleagues in the House of

Representatives for voting for or supporting this piece of legislation.

They should, however, be very clear on the public record that this legislation is not particularly in the public interest. It should be equally clear on the public record that this legislation is going to accomplish nothing in the public interest. It should be equally clear on the public record that this is not the way we should legislate. We should not legislate against a particular producer or particular part of a particular industry to satisfy the pique or displeasure of Members of the Congress of the United States.

This legislation is bad legislation. It is not adequate legislation. It really does nothing which merits favorable consideration. Indeed, the whole consideration of this legislation by this body is a total waste of time.

Therefore, Mr. Chairman, I point out to my colleagues that they can vote against this legislation with a perfectly clear conscience. If they vote for it, I suspect they can probably have almost as clear a conscience, but I hope no Member of this body deceives himself into any idea that this legislation is going to in any fashion correct any wrong or redress any ill or do anything else.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I was going to vote for this bill, but after hearing what the gentleman says, I am beginning to have second thoughts.

The gentleman is contending something. Could he spell out in a little more detail what he is contending?

Mr. DINGELL. Mr. Chairman, I have expressed myself as much as I intend to express myself. I would be glad to sit down with the gentleman and discuss it in private.

Quite frankly, we are wasting the time of the House in considering this legislation.

Mr. LONG of Maryland. Mr. Chairman, what the gentleman tells me disturbs me. I am inclined to feel that I will vote against the bill.

Mr. DINGELL. Mr. Chairman, I thank the gentleman, and I intend to vote against the bill. I do not intend to be critical of any Member who is for the bill.

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

Mr. DINGELL. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I would like to associate myself with the views of Mr. DINGELL and the dissenting views of Messrs. MCCOLLISTER and FREY. Not only is this legislation discriminatory against broadcasters by depriving them of advertising revenue, but it fails to solve any problem adequately.

On the one hand, it involves a further intrusion of the Government into the first amendment rights of advertisers and broadcasters. It attempts to determine what is suitable material for broadcast advertising and what is not, yet makes no attempt at setting similar restrictions upon other media.

I believe it was a mistake to initially ban cigarette advertising from television—it has had the result of driving cigarette advertisers to bigger, better ads in newspapers and magazines, and has had no adverse impact on the use of cigarettes—which has increased.

To compound the error by extending this "broadcast blackout" to another product provides an even greater basis for the future continued and expanded regulation of broadcast advertising and programming through the Federal Communications Commission. Government censorship of programming is not so far a cry from Government censorship of advertising material.

If there is solid evidence that smoking little cigars is damaging to health, then if this Congress feels it must be the guardian of smokers' health, the answer is not to ban advertising of the product by electronic media, but take the product off the market entirely. This is the only honest thing for us to do.

In the case of cigarette smoking, the Surgeon General has been able to make some form of case that there is a direct link between cigarette smoking and cancer. In the case of little cigars, though, this evidence has never been found—hinted at, but the facts do not point to this conclusion.

If we can show such a damaging impact to health that the Congress feels compelled to take these products off the market, just as the FDA might ban a dangerous drug on the basis of solid evidence, then let us do it. But I cannot condone the infringement upon the advertising rights of the little cigar manufacturers until such evidence is put squarely before the American public and these products are declared by Congress or the appropriate governmental agency to be unsafe for use and banned.

To act in any other way is an insult to the intelligence of the American public and an infringement on constitutional guarantees.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. HAMILTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7482) to amend the Federal Cigarette Labeling and Advertising Act of 1965 amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar," and for other purposes, pursuant to House Resolution 503, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

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

Mr. HILLIS. 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.

The vote was taken by electronic device, and there were—yeas 287, nays 63, answered “present” 1, not voting 83, as follows:

[Roll No. 443]

YEAS—287

Abdnor	Flowers	Mollohan
Abzug	Ford, Gerald R.	Morgan
Adams	Ford,	Moss
Alexander	William D.	Murphy, N.Y.
Anderson, Calif.	Forsythe	Natcher
Anderson, Ill.	Fountain	Nedzi
Andrews, N. Dak.	Frenzel	Neilsen
Annunzio	Fulton	Nichols
Archer	Gaydos	Obey
Arends	Gettys	O'Brien
Aspin	Giaimo	O'Hara
Bafalis	Gibbons	O'Neill
Baker	Gilmans	Owens
Beard	Ginn	Passman
Bennett	Gonzalez	Patten
Bergland	Grasso	Perkins
Bevill	Green, Pa.	Pettis
Biaggi	Griffiths	Peyser
Blester	Grover	Pickle
Bingham	Gubser	Poage
Blackburn	Gude	Preyer
Blatnik	Gunter	Price, Ill.
Boggs	Guyer	Pritchard
Boland	Haley	Quie
Bowen	Hamilton	Quillen
Brademas	Hanley	Railsback
Breux	Harvey	Randall
Breckinridge	Hastings	Rangel
Brinkley	Hays	Rees
Broomfield	Hechler, W. Va.	Regula
Brown, Calif.	Heckler, Mass.	Reuss
Brown, Mich.	Heinz	Rhodes
Broyhill, N.C.	Helstoski	Riegle
Broyhill, Va.	Henderson	Rinaldo
Buchanan	Hicks	Roberts
Burgener	Hinshaw	Robinson, Va.
Burke, Fla.	Hogan	Robison, N.Y.
Burke, Mass.	Holt	Rodino
Burlison, Mo.	Holtzman	Roe
Butler	Hosmer	Rogers
Byron	Howard	Roncalio, Wyo.
Carey, N.Y.	Huber	Roncalio, N.Y.
Carney, Ohio	Hungate	Rooney, Pa.
Carter	Hutchinson	Rose
Cederberg	Ichord	Rosenthal
Chamberlain	Jarman	Roush
Chappell	Jordan	Roy
Clancy	Johnson, Calif.	Royal
Clark	Johnson, Colo.	Ruppe
Clausen, Don H.	Johnson, Pa.	Sandman
Clay	Jones, Ala.	Sarasin
Cleveland	Jones, N.C.	Sarbanes
Cochran	Jones, Okla.	Satterfield
Cohen	Jones, Tenn.	Saylor
Collier	Jordan	Scherle
Collins, Ill.	Kastenmeier	Schneebeli
Collins, Tex.	Kazen	Schroeder
Conable	Kluczynski	Koch
Conlan	Koch	Sebellius
Conte	Kyros	Seiberling
Corman	Latta	Shriver
Cotter	Lent	Sikes
Coughlin	Long, La.	Skubitz
Daniel, Dan	Long, Md.	Slack
Daniels, Dominick V.	McCormack	Snyder
Danielson	McDade	Staggers
Davis, Ga.	McFall	Stanton, J. William
Davis, Wis.	McKay	Stanton, James V.
Dellenback	Macdonald	Stark
Dent	Madden	Steed
Derwinski	Madigan	Steelman
Dickinson	Mahon	Stokes
Downing	Mallary	Stubblefield
Drinan	Martin, N.C.	Stuckey
Duncan	Mathias, Calif.	Studds
du Pont	Matsunaga	Sullivan
Eckhardt	Mayne	Symington
Edwards, Ala.	Mazzoli	Taylor, N.C.
Edwards, Calif.	Meeds	Thompson, N.J.
Elberg	Melcher	Thomson, Wis.
Erlenborn	Metcalfe	Throne
Fascell	Mezvinsky	Thornton
Findley	Milford	Tierman
Fish	Miller	Ullman
Fisher	Minish	Van Deerlin
	Mink	Vander Jagt
	Mitchell, Md.	Vanlik
	Mitchell, N.Y.	Vigorito
	Mizell	Waggoner

Whalen	Winn	Young, Ill.
White	Wolf	Young, Tex.
Whitehurst	Wright	Zablocki
Whitten	Wyatt	Zwach
Widnall	Wylie	
Williams	Yates	
Wilson, Bob	Young, Alaska	
Wilson, Charles, Tex.	Young, Fla.	
	Young, Ga.	

NAYS—63

Ashbrook	Hébert	Shoup
Bauman	Hillis	Shuster
Burleson, Tex.	Hunt	Smith, N.Y.
Burton	Kemp	Spence
Camp	Ketchum	Steiger, Ariz.
Casey, Tex.	King	Steiger, Wis.
Cronin	Kuykendall	Symms
Daniel, Robert W., Jr.	Landgrebe	Taylor, Mo.
de la Garza	Lott	Teague, Calif.
Dennis	Lujan	Towell, Nev.
Devine	McCollister	Treen
Dingell	Martin, Nebr.	Walde
Evans, Colo.	Montgomery	Ware
Flynt	Moorehead	Wiggins
Goldwater	Calif.	Wilson
Goodling	Charles H., Calif.	
Gross	Parris	
Hammer-schmidt	Powell, Ohio	Wyman
	Price, Tex.	Young, S.C.
	Rarick	Zion
	Rousselot	
	Ruth	
	Ryan	

ANSWERED “PRESENT”—1

Armstrong

NOT VOTING—83

Addabbo	Frelinghuysen	Minshall, Ohio
Andrews, N.C.	Fuqua	Moakley
Ashley	Gray	Moorhead, Pa.
Badillo	Green, Oreg.	Mosher
Barrett	Hanna	Murphy, Ill.
Bell	Hanrahan	Nix
Bolling	Hansen, Idaho	Patman
Brasco	Hansen, Wash.	Pepper
Bray	Harrington	Pike
Brooks	Harsha	Reid
Brotzman	Hawkins	Rooney, N.Y.
Brown, Ohio	Holfield	Rostenkowski
Burke, Calif.	Horton	Runnels
Chisholm	Hudnut	St Germain
Clawson, Del	Karth	Shipley
Conyers	Keating	Sisk
Crane	Landrum	Smith, Iowa
Culver	Leggett	Steele
Davis, S.C.	Lehman	Stephens
Delaney	Litton	Stratton
Diggs	McEwen	Talcott
Donohue	McKinney	Teague, Tex.
Dorn	McSpadden	Udall
Dulski	Mailliard	Veysey
Esch	Maraziti	Walsh
Eshleman	Mathis, Ga.	Wyder
Flood	Michel	Yatron
Fraser	Mills, Ark.	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Field with Mr. Bell.
Mr. Rooney of New York with Mr. Hanrahan.
Mr. Fuqua with Mr. Minshall of Ohio.
Mr. Addabbo with Mr. Steele.
Mr. Brasco with Mr. Talcott.
Mr. Hawkins with Mr. Karth.
Mr. Delaney with Mr. Maraziti.
Mr. Donohue with Mr. Hudnut.
Mr. Flood with Mr. Hansen of Idaho.
Mr. Teague of Texas with Mr. Bray.
Mr. Yatron with Mr. Crane.
Mr. Sisk with Mr. Esch.
Mr. Rostenkowski with Mr. Horton.
Mr. Moorhead of Pennsylvania with Mr. Keating.
Mr. Murphy of Illinois with Mr. Brotzman.
Mr. Nix with Mr. Dulski.
Mr. Gray with Mr. Brown of Ohio.
Mr. Green of Oregon with Mr. Veysey.
Mr. Leggett with Mr. McEwen.
Mr. Mills of Arkansas with Mr. Harsha.
Mr. Culver with Mr. Eshleman.
Mr. Chisholm with Mr. Runnels.
Mr. Brooks with Mr. McKinney.
Mr. Barrett with Mr. Walsh.
Mr. Ashley with Mr. Mailliard.
Mr. Badillo with Mr. Conyers.
Mr. Diggs with Mr. Harrington.

Mr. Pike with Mr. Del Clawson.

Mr. Reid with Mr. Frelinghuysen.

Mr. St Germain with Mr. Mosher.

Mr. Stephens with Mr. Wyder.

Mr. Udall with Mr. Landrum.

Mr. Pepper with Mr. Mathis of Georgia.

Mr. Moakley with Mr. McSpadden.

Mr. Hanna with Mr. Michel.

Mrs. Burke of California with Mr. Stratton.

Mr. Andrews of North Carolina with Mr. Lehman.

Mr. Davis of South Carolina with Mr. Litton.

Mr. Dorn with Mr. Fraser.

Mrs. Hansen of Washington with Mr. Patman.

Mr. Shipley with Mr. Smith of Iowa.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 503, the Committee on Interstate and Foreign Commerce is discharged from further consideration of the bill (S. 1165) to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term “little cigar,” and for other purposes.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill.

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

A similar House bill (H.R. 7482) was laid on the table.

PERSONAL EXPLANATION

Mr. FLOOD. Mr. Speaker, on the vote that was just taken by the House, I was unavoidably detained. Had I been present I would have voted “nay” on final passage.

PERSONAL EXPLANATION

Mr. CHAPPELL. Mr. Speaker, when rollcall No. 442 was taken, I was unavoidably detained. Had I been present I would have voted “aye.”

REREFERENCE OF H.R. 1807, H.R.

2316, AND H.R. 3274

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the bills H.R. 1807, H.R. 2316, and H.R. 3274, and that those bills be referred to the Committee on Education and Labor.

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

The was no objection.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, when the rollcall No. 442 was taken I was unavoidably detained. Had I been present I would have voted “aye.”

PERSONAL EXPLANATION

Mr. BOWEN. Mr. Speaker, I was absent when rollcall No. 442 was taken. I

was in the building, but did not hear the bells being rung. If I had been present I would have voted "aye."

ADDRESS BY THE HONORABLE JOHN PAUL HAMMERSCHMIDT TO 55TH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION

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

Mr. TEAGUE of California. Mr. Speaker, the American Legion has recently concluded its 55th annual convention. One of the highlights of that convention was the address of the Honorable JOHN PAUL HAMMERSCHMIDT, the ranking minority member of the Committee on Veterans' Affairs. The gentleman from Arkansas delivered what I considered to be a comprehensive report on the status of veterans legislation at the present time. I commend it to the attention of my colleagues. The address follows:

ADDRESS BY JOHN PAUL HAMMERSCHMIDT, MEMBER OF CONGRESS, AT 55TH ANNUAL NATIONAL CONVENTION, THE AMERICAN LEGION, HONOLULU, HAWAII

(Joint session of the National Legislative and Veterans' Affairs and Rehabilitation Commissions)

Chairman Horton, Chairman Lenker, Director Stringer, Director Golembieski, Members of the Commissions and my fellow legionnaires:

It may sound somewhat trite to say that I'm glad to be here—but I am. This beautiful tropical setting is enough to make anyone glad to be here, but I'm glad for other reasons. First and foremost, I am glad because this visit affords me the opportunity to discuss matters of common interest with you—the members of two of the most powerful commissions of the American Legion—Legionnaires who are playing an important role in formulating the American Legion's program for the coming year.

My visit also affords me the opportunity to recognize the splendid work of the staff of your Washington office.

First—I bring you the greetings of our distinguished Chairman W. J. Bryan Dorn. He asked me to convey his regrets that he cannot be with you in person, but he wants to assure you that he is present in spirit.

As always he will be interested in the legislative program you will develop during this convention; a program which is always of valuable assistance to the Committee on Veterans' Affairs in carrying out its responsibilities.

Also let me pay tribute to all those members—of the House of Representatives who serve with me on the Committee on Veterans' Affairs. They send you Greetings.

It is because of the dedicated effort and spirit of cooperation of this group that we have been able to forge the most comprehensive veterans benefit program of any nation in the world.

Putting aside partisan politics, Democrats and Republicans have labored through the years and, in most instances, without fanfare in perfecting this sound structure of veterans' benefits.

Our efforts in this field have been greatly facilitated by the assistance we receive from your Washington Representatives. The wisdom of your views presented so well by Herald Stringer and Ed Golembieski, and their staffs, have helped to crystallize our

position on the various issues of the moment. I am grateful for their help.

Now, as you begin putting together your program for next year, I want to share with you a few brief observations on the issues of the moment.

I think you will agree this has been a very productive year from the point of view of veterans, despite the fact that only three bills have thus far been actually signed into law. Packed into these measures, however, are a number of far reaching proposals. For example, just prior to the current recess, the President approved into law a medical omnibus bill.

The approval of this measure, I know, represents the successful attainment of several of the American Legion legislative mandates for the current year. This measure contains a provision that will authorize outpatient medical services to any veteran eligible for hospital care under veterans laws where such care is reasonably necessary to obviate the need for hospital admission. I know you recognize the significance of this language.

To me, as an example, it means that a veteran with a common chest cold who presents himself to a Veterans Administration out-patient clinic can be treated for this cold on the theory that untreated, the condition may develop into pneumonia and require hospitalization. Prior to the approval of the new law, this same veteran would have been sent home after being informed that the Veterans Administration could not treat him until his condition had become serious enough to require hospitalization.

Another important provision of this law will for the first time extend hospital and medical care to certain dependents and survivors of veterans who died or are totally disabled from service-connected causes.

Under this provision, the administrator of veterans affairs is authorized to contract with the Secretary of Defense or with a private insurance carrier to provide medical benefits similar to those available to certain dependents and survivors of active duty and retired members of the Armed Forces under the CHAMPUS program.

Such care would be provided for wives and children of permanently and totally disabled service-connected veterans and for widows and children of veterans who died as the result of service-connected disability. In unusual circumstances only, would such care be provided in Veterans' Administration facilities.

The Medical Omnibus Bill will permit the Veterans' Administration to compete more readily with the private-sector in recruiting and retaining nurses by authorizing pay-differentials for nurses who perform duty on Sundays and holidays and at night.

The new law also increases the payment to State homes providing care for veterans eligible for admission to VA medical and domiciliary facilities. Finally, the measure increases the percentage of the Federal Government's contribution to States for the construction of State veterans' homes from the present 50 percent maximum to 65 percent. These are but the highlights of the Veterans' Health Care Expansion Act of 1973 approved by the President as Public Law 93-82.

The new law contains some 26 provisions, all essential to the proper functioning of the Veterans' Administration hospital system.

1. HOSPITAL FUNDING

Perhaps the most important provision of the new medical bill could easily go unrecognized. I am speaking of a provision that directs the administrator to staff and maintain sufficient beds and other facilities to insure the immediate care of patients found to be in need of hospital care and medical treatment.

This language sounds innocuous, but I can

assure you it is not. For many years we have been playing the numbers game with the average daily patient census in Veterans Administration hospitals. The Veterans Administration budget request would be based on a lowered daily census. The Congress would appropriate funds for a higher daily patient census.

The Veterans Administration would ignore the Congressional mandate and operate the hospital system at the lowered figure. Then the debate would rage all year on the adequacy of funding. Most everyone agrees that funding based on a predetermined average daily patient census is wrong. So, the new language of the law abandons the daily census method of funding and assumes that sufficient facilities, (including hospital beds), will be available to care for sick veterans.

Should the estimate of funds needed to accomplish this worthy objective be wrong, the Veterans Administration would be authorized and fully expected to seek supplemental funds later in the year. We have, in effect, through the new law placed hospital funding in the same category as direct benefit funding. The treatment of sick veterans is a statutory obligation as is the payment of compensation. If funds for either program are exhausted prior to the end of the year, supplemental funds will be authorized.

Our committee will watch carefully the new method of budgeting, with the high hope that it will eliminate the annual fight over the VA medical budget.

2. INTEREST RATE ON GI LOANS

As you undoubtedly are aware, the Veterans Administration Home Loan Program has been virtually non-existent for the month of July. As the result of new legislation, P.L. 93-75, the program is again operational. It happened this way. While the Veterans Administrator had the authority to set the maximum interest rate on G.I. Home Loans, he could not set the rate higher than the FHA rate which had a statutory ceiling of 6 percent.

For several years, of course, this ceiling has been unrealistic. So, through a series of successive legislative enactments, the Secretary of Housing and Urban Development has been given temporary authority to set the FHA rate in excess of 6 percent. With the most recent extension of the Secretary's June 30th, the House of Representatives on May 21st authorized a one year extension.

Unfortunately, the bill was saddled with temporary authority scheduled to expire last several controversial amendments in the Senate and still had not become law June 30th.

So both the VA and FHA programs were forced to operate under a 6 percent interest rate ceiling as of July 1.

Our committee resolved the problem (with respect to VA loans) by quickly acting upon a bill authorizing the Administrator to set the rate of interest on G.I. loans without regard to the maximum rate on FHA loans.

FHA now has been given stop-gap authority (Aug. 10th) until Oct. 1st while Congress continues to try to pass omnibus housing legislation.

On July 26, 1973, the President approved the bill and shortly thereafter, administrator Don Johnson announced the new interest rate ceiling of 7 1/2 percent.

3. NATIONAL CEMETERIES

Another measure of major importance to the American Legion, was the National Cemeteries Act of 1973, approved by the President on June 18th. The enactment of this new law climaxed several years of effort to establish a national burial policy for veterans. The new law transfers the responsibility for the administration of the National Cemetery System from the Department of the Army to the Veterans Administration.

It authorizes a burial plot allowance of \$150 payable on behalf of veterans not buried in a national cemetery. It permits pay-

ments up to \$800 on behalf of veterans dying of service-connected disabilities. Finally, the measure directs the Veterans' Administration to conduct a study and submit recommendations to the Congress by January 3, 1974 on a burial policy for veterans, including the desirability of constructing new cemeteries.

4. PENSIONS

Undoubtedly, the most pressing veterans problem facing this 93rd Congress relates to non-service-connected pension for veterans and widows. As you well know, the pension payment scale is structured in such a manner that increases in income from any source will produce a reduction in monthly pension payments, though to a lesser degree. The 20 percent increase in social security payments received last September, of course, caused such an adverse effect.

Public Law 92-603, enacted in the closing days of the 92nd Congress causes further reductions, as will the social security amendments approved just a short time ago.

Now that the dust has settled, however briefly, on the social security increases, we have been able to make some adjustments in the pension program. In the House passed bill, we have increased by \$13 the monthly pension rates for veterans with no dependents and by \$14 the rates for those with one dependent.

Widows without dependents receive a \$9 increase, while those with one dependent receive a \$10 increase. Percentagewise, the minimum increase is 10 percent, while the maximum is substantially greater.

The House passed bill also limits to \$3,600 the amount of a spouse's earned income that may be excluded in computing the veteran's income for pension purposes.

The Senate passed bill, on the other hand, authorized a 10 percent increase in pension rates.

Dollar wise, the increase ranges from \$14 down to \$2. The Senate bill also increased the maximum limits on annual income by \$400, while placing no limitation on a spouse's earned income.

The cost of the two versions also varies substantially. The House version in its first year of operation will cost \$246 million, while the Senate bill will cost \$236.4 million.

5. PLANS FOR BALANCE OF 1ST SESSION

Now, where do we go from here. Congress will return from its August recess September 5th.

There will probably be at least 6 to 8 weeks of legislative activity prior to the adjournment of this first session of the 93rd Congress. During that period, we should be able to resolve the differences in the House and Senate versions of the pension bill and send it to the White House for approval.

It would be my hope we can do this—I know we should as soon as possible after we reconvene.

Education

The Education Subcommittee last month held a series of hearings on approximately 50 bills relating to the G.I. Bill. Some of these will extend the 8 year period during which a veteran must utilize his educational benefits. Another group of bills will count for educational benefits the time spent by a Reservist or National Guardsman on "active duty for training".

Another group will authorize the Veterans Administration to pay separate tuition payments in varying amounts to veteran students in addition to the educational allowance now payable.

Still others will permit World War II and Korean conflict veterans to avail themselves of educational benefits that had previously been earned but not used. Because of the number of bills before the committee, the long list of witnesses to be heard and the complexity of the pending bills, these hearings will continue after the August congressional recess.

6. PLANS FOR SECOND SESSION

Now what about next year. I mentioned earlier the pension measure awaiting our final action after the recess. You must recognize that our final action on this bill does not in any sense represent our final action on the pension program. The Veterans Administration spokesman, during the recent hearings on this subject, said of the current pension system, and I quote him "... the entire program has inconsistencies, inequities, and anomalies which cannot be corrected within the framework of the law as now constituted."

He went on to suggest a basic reform of the pension system.

Now, I do not like the word "reform". But neither do I like the idea of an aged veteran's pension being in a lesser amount than the social security payment received by an aged citizen. Yet the supplemental security income program recently enacted will assure aged citizens a minimum income of \$210 for a married couple while a married veteran with no other income receives \$140 per month.

I most certainly do not begrudge this payment to aged citizens. The nation's veteran, however, gave something extra in time of war and he is entitled to something extra in time of peace.

If pension reform will cure the situation I have described, then I can support "reform". Unfortunately, the reform suggested by the Veterans' Administration was too complex to be given the in-depth consideration it deserves in the short time available to us, since those hearings.

Briefly, the VA recommended a base-pension rate of \$150 per month for a single person and \$225 per month for a person with one dependent. They also recommended an automatic-cost of living adjustment working simultaneously with that applicable to social security. Admittedly, there are features of the reform-measure which will require further study. I intend to request such study by our committee next year so that the tax-dollars expended will assist those persons who are the most needy.

Next year, I expect the committee will address itself to the subject of compensation for service-connected disabilities and dependency and indemnity compensation for the survivors of those who died in service or as the result of service-connected disabilities. Cost-of-living adjustments in both of these programs will undoubtedly be due at that time.

This, my fellow legionnaires, covers the major subjects that will receive our attention during the balance of this year and early next year. Before concluding, let me touch briefly on one other subject. I have repeatedly heard voiced the fear or apprehension that with a system of national-health-insurance on the horizon, the Veterans Administration hospital system will lose its identity and be merged into a gigantic health delivery system for the nation.

Let me assure you right now that I will utilize every resource at my command to prevent this. I pledge to you that I will continue by unrelenting efforts to preserve an independent hospital system for the nation's veterans. And furthermore, I have every reason to believe that this also represents the intent and policy of the executive branch of this administration.

CONCLUSION

In conclusion, let me leave you with this thought.

There is not sufficient money available to do all of the things that everyone wants to do. Therefore, it has been necessary to proceed with an order of priority. There is general agreement that the hospital and medical program must come first.

Compensation for the service-connected disabled and the survivors of our war dead

must receive a high priority since it seems unquestionable that the Government's first obligation is to this group. Non service-connected pensions should be made available to aging veterans and widows, but these programs must be kept in bounds and bear a proper relationship to the service-connected programs.

This is the philosophy we have attempted to pursue in the committee on veterans affairs. With your help, we can continue on the road to perfecting these programs.

As you consider your resolutions at this convention, may you be blessed with the mature wisdom necessary to formulate the clear, concise and reasonable program that has been the hallmark of the American Legion for more than half a century.

Thank you.

NATIONAL PARK SERVICE AIDS METRIC CONVERSION

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

Mr. McCLORY Mr. Speaker, I am pleased to receive notification from the National Park Service that metric measurements are being added to the national park signs and pamphlets describing measurements in our great national parks for the benefit of our American, as well as foreign, visitors.

Mr. Speaker, this is further recognition of the conversion to the metric system which is occurring despite the absence of specific legislation. The Bureau of Standards' study report was completed in July 1971—recommending a general conversion to the metric system of weights and measurements with a target date 10 years hence.

Mr. Speaker, more than 20 of my colleagues have joined in recommending legislation to help coordinate the program of conversion which could enable our educational and industrial institutions to convert to the metric system of weights and measures over a 10-year period. This can be done principally on a voluntary basis with no more than a co-ordinating agency established by the Federal Government to help the numerous private groups which are already planning for a logical and orderly changeover.

Mr. Speaker, our bill, H.R. 2351, is pending before the House Committee on Science and Astronautics. I hope the committee will have occasion to recommend this or comparable legislation soon. The park service announcement provides further support for action which can bring our Nation at long last into line with the rest of the industrialized nations of the world. I am attaching the park service news release which was issued yesterday:

METRIC MEASUREMENTS WILL BE ADDED TO NATIONAL PARK SIGNS, BOOKLETS

National Park Service Director Ronald H. Walker has announced that National Park System signs and brochures soon will include metric as well as standard distance measurements.

Walker said that signs in the parks and pamphlets issued to visitors to these areas would be revised as soon as they became obsolete or are otherwise replaced or reissued. He explained that the conversion will begin in a number of heavily visited parks later this year.

"The switchover to the metric system has

already begun in certain areas of private industry and in school systems in the United States," Walker said. "But most important for us is the convenience we can provide for the rapidly increasing number of foreign visitors to this country and our national parks and historic areas. At the same time, by providing metric alongside standard measurements, the National Park Service can provide a useful educational method for school children and the public at large to think in metric terms."

Walker pointed out that in 1971 the Secretary of Commerce recommended that the United States change to the metric system through a coordinated national program. Legislation is pending before Congress to establish a national policy relating to conversion to the metric system in this country.

"The United States is the only major nation in the world which has not decided to 'go metric,'" Walker said. "Meanwhile, our own visitors readily understand a sign saying, for example, that the elevation of the South Rim of the Grand Canyon is 7,000 feet. But that means little to our foreign visitors who come to see that spectacular view. They need to know that elevation is 2,099 meters."

The dual listings, Walker said, would also be useful educationally to the many Americans who travel abroad and must try to adopt to the metric system wherever they go.

Apart from measurements of feet, others that are common in Park Service brochures and signs include: miles, now joined by kilometers which are 0.62 of a mile; miles per hour; yards, which are just short of the 39 inch meter; and acres, of which 2.47 make a hectare.

A PROPOSED CONSTITUTIONAL AMENDMENT CONCERNING THE DEATH PENALTY

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

Mr. WIGGINS. Mr. Speaker, I am today introducing a proposed amendment to the United States Constitution which would, under limited circumstances, authorize the imposition of the death penalty.

The text of the proposed amendment is as follows:

Nothing in this Constitution shall prohibit the imposition of the penalty of death upon the conviction of the crime of murder or treason, provided that the statute authorizing such penalty shall have been enacted after the effective date of this article.

I have concluded after many months of reflection on this most difficult issue that society should not be denied the right to impose the penalty of death for specific crimes; that the existence of this right is unclear in view of *Furman v. Georgia*, 408 U.S. 238 (1972); that a constitutional amendment is the best, if not the only, vehicle adequate to clarify this right; that the societal right to exact the death penalty should be limited to the crimes of murder and treason only; and that the Congress and the State legislatures should be compelled to reenact statutes imposing the death penalty for these offenses, thereby forcing a public reassessment of the wisdom of such penalties in the light of modern experience and attitudes.

The amendment which I propose represents an attempt to achieve these values. If the language is imperfect, hearings themselves, however, will com-

pel a focus by Congress and legal scholars on an issue which needs to be fully aired in the light of *Furman* against Georgia.

It is the purpose of the amendment to remove the doubt presently existing that the eighth amendment proscribing cruel and unusual punishments itself is a bar to the imposition of the death penalty, or that such a penalty is, inherently or as applied, a deprivation of due process or equal protection of the laws. Since a lawful conviction must precede the imposition of sentence, all other constitutional challenges to the validity of the statute imposing such penalty, the arrest of a person pursuant thereto and to his subsequent trial remain unaffected by the amendatory language.

If the amendment proposed, or a more perfect variant thereof, becomes a part of our Constitution, it is my personal hope that legislative bodies will exercise the power thus conferred with great caution and discrimination. For my part, I am presently persuaded that the death penalty should be reserved, in murder cases, for those homicides committed by prisoners confined to life sentences for previous offenses.

I do not propose any amendment to the U.S. Constitution lightly. Our basic governmental charter should not be altered to resolve controversies of the day except upon a showing of clear necessity. The Constitution must remain a broad statement of general principles which defines the power relationships of the people and their government. The amendment which I propose is of such a character and I urge its prompt consideration by the House Committee on the Judiciary.

QUESTIONS AND ANSWERS ON HOSMER PLAN FOR URANIUM ENRICHMENT INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER) is recognized for 10 minutes.

Mr. HOSMER. Mr. Speaker, considerable interest has been sparked by my plan announced last week for the evolution of the uranium enrichment industry from public hand to private hands by the initial use of a government corporation.

There follows answers to questions which have been asked about the plan:

Q. What is the objectives of the Hosmer Plan?

A. To let the world know the U.S. is aggressively in the uranium enrichment business and to bring certainty where none now exists by providing a mechanism to do three things: (1) avoid a nuclear fuel gas; (2) protect the U.S. claim to overseas markets by uninterruptedly offering separative work contracts; and (3) provide for a quick and orderly transition from public to private enriching.

Q. Why is a government corporation called for—can't AEC just add the capacity?

A. Uranium enriching is becoming a big business. It ought to be run as a business and run efficiently. You can't do that if you have to depend on annual appropriations from the Congress to finance it. Moreover, pricing the product, expanding capacity, keeping up with competition and similar considerations dictate the flexibility of a corporate set-up.

Q. How will your guillotine clause stop the

U.S. Enrichment Corp. (USEC) from adding capacity?

A. To encourage private industry to move into the enrichment business almost when it chooses, USEC's corporate charter will allow it to add capacity only in moderate size increments, each no larger than 3,500,000 separative work units per year. By comparison, the AEC estimates 16,600,000 swu/yr of capacity will have to be added during the first year after capacity of the AEC's existing enriching complex is exhausted. Further, USEC will be required to get a license from the new Nuclear Energy Commission (NEC) before adding the first or any subsequent increments. The law establishing USEC will state that no license can be issued to USEC if there is another U.S. applicant holding an advisory anti-trust clearance from the Justice Department which is ready, willing and technically and financially capable of the timely addition of the next increment of capacity and commits itself irrevocably to do so. Such applicant must be a United States citizen, however, up to 49% of its equity may be foreign owned. In order to encourage competition applications by private enrichers shall not exceed 10,000,000 swu/yr capacity per increment.

Q. Will there be any exception to the guillotine clause?

A. Only one. That is where a potential private enricher states in its application that the demand it intends to supply is already satisfied. This could be the case where an applicant already has contracts or where a group of electric utilities propose to set up an enriching cooperative to supply its own members' nuclear fuel requirements.

Q. The Hosmer plan calls for transfer of separative work contract from USEC to private enrichers in the order last received—how would that work?

A. USEC will be contracting to supply more enriching service than it actually has capacity in being able to supply, just as AEC now contracts for work to come out of the cascade improvement and uprating programs which haven't been carried forward yet. Contracts which exceed USEC's existing capacity, for which it would otherwise add capacity to fill will be subject to transfer. Here's an example: USEC has its original three plant capacity of 27,500,000 swu/yr, and has added one 2,500,000 plant and is building another 3,000,000 plant for a total of 33,000,000. However, it has contracts out for 50,000,000 swu/yr, 17,000,000 more than its existing and planned capacity. At this point Private Co. "A" gets a license for a 10,000,000 swu/yr plant. It can call on USEC for assignment of contracts totalling the 10,000,000. This cuts USEC's excess to 7,000,000. Private Co. "B" gets a license for 10,000,000 but only calls on USEC for half, since it has other buyers. Now USEC is down to 2,000,000 excess. Private Co. "C" enters the picture but is a consortium of utilities to supply its members own needs so does not call for any assignments. USEC is still at 2,000,000 and considering whether it is going to have to add actual capacity. Now Private Co. "B" re-enters the picture with an amendment to its license increasing its capacity to 15,000,000 from 10,000,000 and calls on USEC for the last 2,000,000 of separative work unit contracts it is holding.

Q. What about price and terms of assigned contracts?

A. For the assurance that there will be nuclear fuel on hand when they need it, the utilities contracting with USEC for swu's will obligate themselves to pay USEC's assignee the latter's going price, so long as it is reasonable. The same rule will apply as to other terms and conditions.

Q. What about the future, when USEC's present contracts are fulfilled—won't it be competing with private industry for business?

A. Sure, we'd be crazy to shut the Corpora-

tion down. Somebody would just have to replace the capacity and there is a growing need for it into the next century. We might consider giving publicly owned utilities a preference to contract with USEC for any separative work that opens up later since privately owned utilities going nuclear early in the game are the principal price beneficiaries of present contracts. We also might think about eventually selling USEC's stock to the public as was done with the Federal National Mortgage Association. But, I wouldn't want to see that done until the transition to a healthy and competitive private enriching economy has been accomplished, probably sometime in the late 1980's.

Q. What are your feelings about USEC's pricing of the product?

A. Presently the AEC charge is based on recovery of costs. I think USEC ought to have some flexibility. Possibly publicly owned domestic electric utilities deserve a break with nuclear fuel expenses, but there is no good reason why the privately owned utilities should keep on getting separative work at cost. Besides, selling the stuff to foreign utilities at cost instead of some better price simply diminished the amount of foreign exchange we can make out of the business. I've already indicated that about \$5 will be added to the average cost of separative work by the front end expenses of adding the first two new increments of moderate size to the existing three plant complex. Additionally, USEC will be making payments in lieu of taxes to states and localities as does TVA. There will be interest on bonds and other expenses, too. These will move up the charges for the product so that the price gap between USEC and the initial private enrichers shouldn't be vast. Nevertheless, USEC should have authority to narrow it by adding an arbitrary profit factor should it appear wise to do so.

Q. When do you think Private Corp "A" will show up?

A. I think as soon as USEC says the front end costs of establishing a centrifuge manufacturing capacity private industry will move right in. That would be after USEC's second increment of new capacity, but in time it would have to be planned to go on the line that first year (1984-85) when the 16,600,000 block of capacity will be needed. USEC's two increments would only take about 5,500,000 of it. There might even be a race between Private Corporations "A", "B" and "C" to see who gets the first license.

Q. Why have you dropped the idea of using a COMSAT type corporation?

A. In my mind the part private, part public corporation approach would serve only one purpose—to provide a vehicle by which U.S. and foreign investors could ease into the enrichment picture. The USEC device will get private investors, both domestic and foreign, into the picture so fast that there is no sense in fooling around with the COMSAT idea anymore. And, I'm satisfied that there is plenty of money lying around waiting to get into the enrichment business as soon as USEC paves the way.

The distinguished nuclear trade publication Nucleonics Week carried the following items relating to the Hosmer plan in its September 6 issue:

HOSMER PUSHING HARD TO "SELL" GOVERNMENT ENRICHMENT CORPORATION PLAN

With a whip and a chair, veteran Rep. Craig Hosmer (R-Calif.) is trying to push the Administration, AEC and the nuclear industry into a consensus in favor of a "sensible, clearly defined" plan to create a government uranium enrichment corporation. Hosmer's plan, made public yesterday in the *Congressional Record*, calls for establishment "forthwith" of a government corporation to operate the three existing gaseous diffusion plants and add new capacity, using gas centrifuge, to the system by 1983-84. It also provides a mechanism for private entry

into the enrichment field on a leisurely schedule and with reduced risk.

Hosmer, the senior Republican member of the Joint Committee on Atomic Energy, spent most of the congressional August recess developing and selling his plan to the parties involved in determining the future structure of the enrichment industry. His intention is to focus phase 2 of JCAE's enrichment hearings, which begin Oct. 2, on the plan. "If enough favorable comment and sufficient constructive criticism are received," Hosmer said, "it may be possible for the Administration and the Congress to proceed quickly to a consensus, get about the business of dispelling indecision, and structure a competitively effective industry within the short time limit available." However, industry comment from those close to the matter showed that there is not now anything approaching a consensus (*see separate story following*).

Insisting that the Nixon Administration's hope for private industry to construct the next increment of enrichment capacity is no longer "operative," Hosmer outlined his plan as follows.

1. Congress would set up the United States Enrichment Corp. (USEC), with AEC's existing production division activities and personnel transferred to the corporation; 2. USEC would operate the diffusion plants at Oak Ridge, Tenn.; Paducah, Ky.; and Portsmouth, Ohio, and manage the government's stockpile of enriched uranium which may be worth \$3-billion by 1978; 3. the corporation would complete the cascade improvement and uprating (CIP/CUP) programs; 4. it would conduct all diffusion and centrifuge research and development; 5. it would add new increments (2.5-million separative work units/yr) of centrifuge capacity; 6. its price would be established by averaging production costs of past and future plants and would include r&d costs.

Regarding private industry participation in the enrichment industry, the Hosmer plan provides that USEC would be prohibited from adding new capacity when a qualified U.S. company enters the field. Enrichment contracts would be assignable to the new company in the order last received. Hosmer also suggested that USEC might be authorized to purchase at cost any unsold production of the first two or three new private enrichment plants (or some fraction thereof) "as a spur to getting them in business."

Hosmer said the corporation would be modeled along the lines of the government-owned Tennessee Valley Authority, which is managed by a three-man board of directors. Capital expenditures for new capacity, r&d and the CIP/CUP programs would be financed by bonds sold to the public. He said the corporation might be charged \$100 per SWU (or \$1.7-billion) to buy the three diffusion plants with repayment "on the installment plan" at \$15/SWU of sales. "At full capacity, this would amount to about \$400-million a year," he said.

New centrifuge capacity in increments of 2.5-million and 3.0-million SWU's would produce actual production costs ranging from \$60-75/SWU, Hosmer said, but when averaged into the \$36-38 prevailing price at the existing plants, the costs to the customer would be "a little over \$41-43." He predicted that the first private industry centrifuge plants would come in at or below \$55-58/SWU, including taxes and "a reasonable profit."

Hosmer stressed the need for a quick decision in order to head off potential overseas competition and the loss of an estimated \$33-billion foreign enrichment market by 2000. "If the U.S. makes wise and timely plans to capture a major share of the international market for uranium enrichment services, the pain of its international balance of payment deficits will, year after year, be considerably eased," he said.

Hosmer said he had briefed the Atomic Industrial Forum, Edison Electric Institute and American Public Power Assn. on his plan, along with about 90% of the interested private companies. Those included the two joint ventures (Westinghouse-Union Carbide-Bechtel and Exxon-General Electric) aimed at actual operation of new enrichment plants. He was scheduled to meet this week with AEC chairman Dixy Lee Ray.

One of the key questions still unanswered is the official Administration attitude on enrichment. In 1969, President Nixon announced an intention to sell the diffusion plants to private industry at some unspecified time in the future. JCAE, particularly Hosmer and Rep. Chet Holifield (D-Calif.), strongly opposed the plan and it was quietly shelved. Since then, the official position has been that private industry would build the next increment of enrichment capacity, reiterated as recently as President Nixon's energy message to Congress in April. Last February, however, White House aide Peter Flanigan wrote Hosmer in a letter that joint government-industry ownership and operation of the diffusion plants might be the preferable near-term alternative.

REACTION TO HOSMER ENRICHMENT PLAN RANGES FROM 100 YEAS TO 100 NAYS

Some members of the nuclear industry conversant with Rep. Craig Hosmer's proposal for a government uranium enrichment corporation agree with him 100% and think it's the only way enough enrichment capacity will be built in time to meet the growing demand; others think the Hosmer idea is totally unnecessary and, if carried out, will perpetuate the present U.S. government monopoly and create a climate too hostile for industry to enter the business. Still others take more of a middle road; if the government feels it needs a little greater safety factor in enrichment production capacity then Hosmer's way is not so bad, said one man, although he thinks it's unnecessary.

He feels private industry has ample time for a "go, no-go" decision in 1974, which is the date Hosmer says is crucial; if the answer then is "no" there still will be plenty of time for the government to step in, the industry man said. Hosmer considers 1974 to be crucial because that's when AEC will have contracted for its total enrichment capacity to 1983 or '84. Customer doubts about enrichment supply thereafter must be put to rest with a clearly defined program next year. Hosmer said, if the U.S. is to retain its worldwide enrichment leadership.

The middle-of-the-road industry man thanks Hosmer's plan might not be too bad if the Joint Committee on Atomic Energy unequivocally states that the government corporation advocated by Hosmer is intended merely to assure that there would be no time gap in supply of enrichment service, and that JCAE endorses the position that private industry ought to build the next major enrichment increment. If that were the case, this man thinks Hosmer's proposed 2.5 million SWU/yr gas centrifuge enrichment facilities to be built as an interim measure by the government corporation would not be a bad compromise. They would be small enough, he said, so as not to preempt the business.

Another industry source noted that half the nation's electrical energy will rest on nuclear fuel within a few years and it would be bad policy then to be dependent on a monopoly enrichment supplier. And "any of these steps Hosmer is proposing merely would further the government monopoly," he said. Foreign uranium users are going to turn elsewhere for their enrichment service, regardless of what the U.S. does, he contended, and institution of a government enrichment corporation won't change this. Moreover, he thinks private industry may well be ready next year to make its decision on entering the enrichment business.

A third industry man said any TVA-type enrichment organization should be viewed as a step in getting AEC out and private industry into the business, "with the ultimate objective of making it possible for industry to own the government corporation." Uncertainty about antitrust aspects of industry involvement in enrichment leaves him "a bit pessimistic" that companies will be ready to make their decisions in less than a year. He foresees 1976 as a more likely date and thinks AEC must continue with gaseous diffusion if by then industry finds centrifuge still speculative. However, he thinks industry could support bringing in two or three centrifuge enriching plans (of the 2.5-million SWU/yr class) almost simultaneously.

A fourth industry source said there's no way that private industry can meet the need for next enrichment capacity. Four large plants will have to be committed before the first of them gets into production in about 1983, he pointed out. So far there are only Exxon-General Electric and Union Carbide-Westinghouse-Bechtel in the field; he doesn't think they'll commit themselves initially to large plants and even if they did it would be inadequate, he said. Utilities don't know which way to go and no industrial company is going to risk a huge financial investment in the face of noncommittal customers, he argued. The dilemma is created, he said, by the need for almost instant commitment by industrial companies in order to meet enrichment requirements. Once there is the interim help of the Hosmer-proposed government corporation, industry can come into the business in an orderly way, he said.

Washington's Weekly Energy Report carried the following authoritative items written by Editor Llewellyn King regarding the Hosmer plan in its September 3 and September 10 issues:

HOSMER LAYS OUT PLAN FOR U.S. ENRICHMENT CORPORATION

"The first thing to do is to acknowledge that the Nixon Administration's lingering demand that the next increment of enrichment capacity 'be supplied by private industry' is no longer 'operative'." That is not the statement of a liberal Democrat who is mad at the Administration. Instead it comes from Rep. Craig Hosmer (R-Calif.) in a major statement prepared for delivery in Congress on Wednesday (Sept. 5). Hosmer has spent a good deal of effort in the past few years drawing attention to the need to do something to prevent the nation's capacity for enriching uranium from falling behind the demand. Hosmer, an advocate of the government enrichment corporation concept, in his latest statement goes further than he has done previously. (He is the ranking minority house member of the Congressional Joint Committee on Atomic Energy.) He not only urged the creation of the corporation but also recommended that it proceed at once with the installation of new centrifuge capacity. Hosmer prepared his statement after touring the nation's enrichment plants, all of which are of the older gaseous diffusion kind.

Hosmer noted that capacity will have to be increased by as much as 40 times to eventually meet the requirements of the free world uranium market. He said that present capacity (27,500 million separative work units annually) will be fully committed in 10 years and that an enrichment gap could develop. Hosmer's firm stand probably indicates that he is thinking of introducing legislation to bring about the government corporation in the near future. The Nixon Administration has steadfastly clung to the idea that the next increment in enrichment capacity should be undertaken by private industry but very little progress has been made. This is Hosmer's scenario:

"1) The first thing to do is to acknowledge that the Nixon Administration's lingering demand that the next increment of enrichment capacity 'be supplied by private industry' is no longer 'operative'; 2) The United States Enrichment Corporation, a government corporation, is to be set up forthwith by act of Congress and enrichment activities and personnel of the AEC transferred to the Corporation; 3) USEC will be charged with operating the existing complex and managing the growing stockpile of preproduced enriched uranium which may be worth around \$3 billion by 1978; 4) USEC will carry forward the CIP/CUP/programs; 5) It will conduct all necessary diffusion and centrifuge R&D; 6) USEC will begin adding moderate size increments (2,500,000 swu/yr) of new centrifuge capacity amply in advance of the dates needed to avoid a nuclear fuel gap; 7) USEC will continue the uninterrupted offering of contracts for sale of separative work to domestic and foreign customers on a non-discriminatory basis, which contracts shall be assignable in the order last received upon the emergence of one or more private U.S. enriching firms; 8) the price of USEC's product will be determined by averaging the production costs of past and future increments of capacity and shall include all applicable R&D costs; 9) general provisions for the licensing of private U.S. enriching firms shall be written into law and supplemented by regulation."

HOSMER EXPANDS ON ENRICHMENT CORPORATION CONCEPT

Rep. Craig Hosmer, minority leader of the Congressional Joint Committee on Atomic Energy, is proceeding with drawing up plans for his proposed government corporation to take over the nation's uranium enrichment responsibilities. Hosmer last week published his grand scheme (Weekly Energy Report, Sept. 3) for the formation of the government corporation. Since then he has been asked by so many people for more details, he said, that he is beginning to sketch out an outline of the proposed corporation.

In an interview, Hosmer emphasized that he believes the government corporation should set up not in lieu of eventual private enterprise enrichment activity but as an interim step to enable industry to come in smoothly and easily without a gap either in the supply of enrichment or in the letting of enrichment contracts. He explained: "The first new increment in capacity that comes along will be very expensive. There hasn't been an enrichment plant built in many years and there will be heavy first-of-a-kind expenses. My plan would be to have a government corporation consisting of the present plants with the personnel that are now running them. It would have the authority to go out and borrow money the way that the Tennessee Valley Authority borrows money—without a government guarantee or with a government guarantee, whichever you end up with. It would raise the money for the continuation of the cascade uprating and the cascade improvement (CUP/CIP) programs. It would also be authorized to go ahead and add capacity so that we don't run into a fuel gap." He said that the corporation would assume responsibility for developing the centrifuge technique, now in its infancy but potentially the most promising way to enrich uranium. The government corporation proposed by Hosmer would also be empowered to continue to let enrichment contracts.

Many of the details, Hosmer said, could be determined later. "The important thing to do is to go ahead with the idea now and to get going." Simultaneously, he said, a structure should be created for the licensing of a private enrichment plant so that "when the fellow comes along who is ready, willing and able technically and financially to get into

the business you would automatically suspend the capability of the government corporation to add any new capacity." He said that in this way private industry could choose when it would come into the enrichment business without being forced to move into enrichment in a disadvantageous way.

Hosmer's view is that private industry has not shown that it is ready to take up the enrichment challenge yet. As a result, he said, there was a very real danger that we would be left after next year with the situation in which the United States could no longer guarantee enrichment deliveries. He added: "So that would give the Europeans and the Japanese a tremendous incentive to go in and grab the enrichment business for themselves. At the present time they are under a considerable disincentive to do it themselves because they know that we can supply this stuff and they know what our prices are and what our technical capabilities are." Hosmer said that the loss of such business would amount to losing foreign earnings worth a billion-and-one-half dollars a year. He went on: "Without all of those disincentives the Japanese and Europeans are going to go ahead and really start in the business themselves. Our market is going to be whittled away if we don't get into a position where we can be able to contract by the end of next year. My scheme is to be able to meet those two problems: the gap in contracting and eventually the gap in fuel supply."

Hosmer is working alone on his scheme and not in consultation at this point with other members of the Joint Committee on Atomic Energy. He has for years had a more compelling interest in enrichment than other members of Congress and the Administration. He still faces a major hurdle provided by the fact that the White House consistently has maintained that the next increment capacity must be borne by private industry. Hosmer sees this as impractical because the product from a new plant would necessarily be a great deal more expensive than that from the existing plants. The government corporation, as he sees it, would be able to come up with a price with which the older plants would subsidize the new plant.

Details of the enrichment plan as originally announced last week are found in my remarks on September 5, at page 28449 of this RECORD.

FOREIGN MILITARY SALES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 20 minutes.

Mr. HAMILTON. Mr. Speaker, this last spring and summer witnessed a more vocal debate between the executive branch and Congress over the issue of foreign military sales than there has been for many years. There were, it appears, three major foci of this exchange.

THREE AREAS OF DEBATE

First, the general U.S. policy of selling arms, in varying quantities, to, perhaps, well over half the countries on this earth came under scrutiny. Some people have felt that the increasing amount of sales raises a series of potential problems for the United States and perhaps increases American involvement in and commitment to foreign nations receiving arms. Some critics even argue that these sales may draw the United States into various regional and local political confrontations across the world at the precise time many Americans are viewing with

increasing uneasiness any foreign involvement and are examining closely many of our past and ongoing global commitments.

A second focus of the recent debate involved specific countries which were, or were supposed to be, seeking to buy vast quantities of American military materiel. This year certain Latin American countries and a few states in the increasingly important Persian Gulf—notably Iran, Saudi Arabia, and Kuwait—were determined by our Department of Defense to be eligible for more sophisticated weapons systems and, in some cases, very large quantities of arms in proportion to their populations.

The need of these states for advanced defense technology for their security is not, in my opinion, the central issue of the debate. In each case in Latin America and in the Persian Gulf, a potential threat to the security of the state and a frightening conflict scenario could be described and perhaps believed. But too often, the rationales for these sales seem to come down to the wishes and ambitions of foreign leaders rather than the calculations of our own, and the desirability of the sales for U.S. economic and political advantage rather than any detailed evaluation of the short and long term implications of the sales. For the ongoing debate on this issue, then, the real concern should be not the particular weapons considered for sale but rather the hasty way the arms deals seem to have been made and some of the justifications and rationales devised to defend the sales.

The third area of debate involved congressional efforts to try to insure greater congressional review of and control over foreign military cash and credit sales. One amendment to the foreign aid bill, which called for congressional scrutiny and ability to rule on any sale of more than \$25 million in any fiscal year, passed narrowly in the Senate but was defeated on the House floor. Such efforts tend to serve notice to the executive branch that there is a real concern over the amounts of arms the United States sells annually, the manner and haste with which some sales are contracted and explained, and the lack of candor by the Government over the extent of many proposed sales. In short, this debate will continue and there will likely be other amendments and more attempts to gain some control over what appears to be an ever increasing amount of arms sales.

THE UNITED STATES AS AN ARMS DEALER

Unfortunately, increases in U.S. arms sales around the world have exceeded the tremendous worldwide growth of arms transfers. From 1961 to 1971, arms transfers the world over tripled. In that period, the United States was responsible for exporting some \$23 billion worth of arms, roughly 47 percent of the world total. In 1971, that percentage rose to 55 percent, and, of all arms imported by non-Communist countries, we furnished some 66 percent. And recent indications are that since 1971 our arms exports have continued to mount rapidly with one observer, Fred Hoffman of the Baltimore Sun, indicating that our sales have tripled in the last 3 years.

The commanding lead that the United States has as the world's largest exporter of arms is not likely to change. The Soviet Union, the world's second largest arms dealer, sold only about 65 percent of what we sold in the 1960's and in 1971, it sold about one-half as many arms and services as we did. And while it is true that all of our NATO allies put together sold more arms than the United States in the 1960's, in 1971 their total exports were not over 70 percent of ours.

Most of the arms sold by the United States go to the developing world, and to many countries which can ill afford to spend hard currency reserves on weaponry. Military expenditures in the developing world averaged an annual rate of increase of 11.4 percent in the 1960's, and in the same period, close to 70 percent of U.S. exports went to the same countries.

These shocking figures do not tell the whole story since so much of our arms transfers involve crisis-torn regions. In 1961, 44 percent of the exports went to the Far East and Near East but that percentage had risen to 61 percent by 1971. In constant 1961 dollars, it seems that total arms transfers to Indochina increased nine and one-half times over the 1961-71 decade while those to the Near East escalated 14 times.

To be sure, much of what is sold can be viewed as supportive of important U.S. national security interests. Arms sales can also be viewed as an essential pillar of the Nixon doctrine of a lower U.S. presence abroad and a determination to help others defend themselves. But I wonder whether the enormous increases of U.S. arms sales that have occurred are maintaining an essential degree of U.S. influence abroad and protecting U.S. interests without increasing our foreign commitments, producing too cozy alliances between our military establishment and the military elites in the countries receiving arms, necessarily involving the United States in regional arms races and dangerous, subregional conflict zones, and potentially forcing the Soviet Union, among others, to react to what we do by selling more arms.

Precisely because we sell so much, we must carefully scrutinize and evaluate the political and strategic implications of what we are transferring of military arms and services not only in a global, East-West sense, but, more important, in subsystem, regional context. We must also offer very clear rationales for the arms supply course we follow and demonstrate at every juncture how our arms transfers are aiding and supporting our diplomatic, political and economic policies. The current debate over the size of arms deals around the world stems both from the magnitude of what we are doing and the seeming lack of attention to the broader implications for large arms supply policy.

CONTEMPLATED SALES TO THE PERSIAN GULF AS AN EXAMPLE

One area where U.S. arms sales have increased dramatically recently is in the Persian Gulf, but there is today little evidence of a clearly enunciated U.S. rationale for the magnitude of arms sales we have been and will be mak-

ing to Iran and Saudi Arabia in particular. Unfortunately, there is even less evidence that our supply policies are aiding what is stated as our political and economic interests and objectives in the region.

The general magnitude and extent of U.S. arms supplies to states in the Persian Gulf are fairly well known and I have spoken on this issue twice in the last few months in the CONGRESSIONAL RECORD on page 17517, May 31, 1973 and June 21, 1973, on pages 20769-20770. A few figures might be worth reemphasizing. Between 1965 and 1972 we sold close to \$6 billion worth of arms and military services to Iran and Saudi Arabia while, in contrast, Iraq, considered the principal Persian Gulf threat to Iran and Saudi Arabia, received perhaps \$1 billion worth of Soviet arms. This is the recent past, and from all indications, the trend is for more, rather than less, sales in the coming years: \$2.5 billion to Iran; perhaps \$580 million to Kuwait; and well over \$1 billion to Saudi Arabia.

Mr. Speaker, I do not object at all to the United States helping these important countries develop reasonable defense forces. It is in our interest and in their interest to do so. But I see little effort made to try to precede large scale arms sales with attempts to limit overall sales to the region or to undertake diplomatic efforts to prevent any arms race. Once the decision to sell arms is made I see little effort to moderate requests for arms and to limit sales. This is particularly the case with Iran.

The Shah of Iran seems to speak about large-scale defense needs and defense parameters far beyond the Persian Gulf and the U.S. private defense establishment seems to line up to try to get a piece of the action.

As in the case of certain Latin American countries for which the 5-year ban on the sale of sophisticated weaponry has been lifted, it is difficult to determine whether the security threats to the states in the Persian Gulf are more internal or external. The U.S. Government paints the picture of a grave Soviet threat from Iraq and the People's Democratic Republic of Yemen to the security of several more conservative monarchies in the Persian Gulf, but I wonder whether the chief threat to some governments is not the diminishing number of monarchies around the world and the tendency for monarchies which do not foster social and political development to be replaced by authoritarian republics. Thus, for some countries in this region, as in Latin America, arms sales seem designed to reinforce the political status quo—a fact which calls for very careful scrutiny of any sale, it would seem.

The debate here over the sale of quantities of sophisticated weaponry to countries in Latin America and in the Persian Gulf is only intensified by some of the other rationales used for selling arms. After playing the security threat argument, we have heard justifications for these sales such as: they help our balance of payments at a time we need all the help we can get; if we do not sell arms, others will; the sale of arms gives us great leverage on states in the future because they will need spare parts and servicing for arms; states friendly to

the United States deserve prestige arms if they want them; and so forth.

Such arguments may not be totally wrong but neither are they adequate as a rationale for any arms supply policy.

Perhaps the most questionable aspect of our arms supply policy in the Persian Gulf is its implications for our stated political goals in the region. Our Government stresses over and again the importance of regional cooperation in the gulf, especially between Saudi Arabia and Iran. But these two states are not old friends; indeed, the Arab side of the gulf and the Iranian side are divided by many historical, cultural, familial, and political differences. To pour arms on all sides into a situation where the Shah of Iran is determined to intervene, if necessary, to preserve his conception of political stability and to play a major, if not dominant, role in the politics of the entire gulf and where the Arabs, including the Kuwaitis and Saudi Arabians, are both resentful and fearful of attempted, if not actual, Iranian hegemony in the gulf is extremely dangerous. The United States is counting on cooperation in the gulf, and yet our arms supply fuels both ambitions of local leaders and an arms race.

In short, my concern over our arms supplies stems directly from their prominence, from the fact that our political policies to date seem to be nonstarters or unsuccessful, thus leaving our arms supply policy the only policy we seem to have going for us in the area at the moment. The same is perhaps true in parts of Latin America where our economic policies have had so much difficulty, and arms sales seem to represent our only successful interaction. With sales we seem to be trying to buy time, trying to buy lasting friendship. For any arms transfer policy to be successful, however, it must be only one component, and a small one, of a large cohesive strategy to a country or area.

This means the touchy political and social issues must be addressed at the same time or our arms policy will operate in isolation and other policy objectives will continue to be frustrated. In the gulf, some of those important political issues are the peaceful resolution of local political disputes, a just and fair settlement of the Arab-Israeli conflict, the fostering of genuine regional cooperation and the immediate strengthening of our diplomatic presence in the gulf, especially the lower gulf. It is debatable whether our arms supply policy, preceding any attention to these political matters, now serves any of them. Our emphasis appears in the wrong place, and, as a result, our overall policy suffers.

CONTROLLING ARMS SALES

Mr. Speaker, in 1973, the United States sold a record \$3.4 billion worth of arms and next year that figure might rise to close to \$4.6 billion. If the Persian Gulf example is the rule and not the exception, we are embarking on a dangerous path which does not at all guarantee the protection of our political interests.

What appears to be lacking, in particular, is a careful analysis in the United States of the wider implications of arms transfers to any country. In the absence of any study of the impact of stepped-up

United States arms sales on the worldwide arms race, one has to conclude that we will continue to feed indiscriminately the motors of conflict and terror in the world, and with that bad example, other states, especially our arms competitors, will likely do the same.

Congress increased concern over, and attempts to control foreign military arms sales stems, in part, from this seeming lack of a careful analysis of the wider implications of selling arms to particular countries and from the fact that over 80 percent of the U.S. arms sold in recent years has been cash transactions without U.S. credit financing and thus without more visible congressional control.

The particular congressional focus on this issue recently, as mentioned above, was the amendment to the Mutual Development and Cooperation Act of 1973 that would provide for congressional review of all sales exceeding \$25 million. This amendment will not likely be in the final bill this year because it was defeated in the House. However, I believe its intent—to give Congress a voice in analyzing the implications of the extensive arms selling the United States does—is good and proper even if the phraseology of the particular amendment needs further study and perhaps refinement, especially insofar as the congressional review will cover the proliferating foreign activities of private U.S. contractors in the defense industry. Those activities, often carried on outside the purview of the Defense Department, are currently checked only when an export license is issued and that usually comes long after contracts are signed and sealed. Any congressional effort to gain some measure of review of proposed arms sales must be couched in such a way as not to encourage more direct dealings between foreign governments and U.S. private defense contractors.

Mr. Speaker, the United States must be exceedingly careful in its arms sales policies around the world. While it may be important to see states friendly to the United States, and states whose security is in our national interest, encouraged to move from grant military assistance to credit or cash sales, we should not actively promote sales or indiscriminately accept others' evaluations of their security needs. An arms supply policy can be a useful supporting instrument to help carry out our political and diplomatic policies and protect our economic and security interests, but it cannot replace those policies. In all cases, however, an arms supply policy should follow diplomatic and political efforts internationally and regionally to effect arms control policies and to insure that we are not promoting or escalating arms races around the world. It would be a great tragedy if, in remaining the world's No. 1 merchant in the arms of war, the United States is unable to be first in peace.

THE GAS BUBBLE—IV

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, when the Coastal States Gas Co. failed to de-

liver all the gas it was committed to, there was an immediate threat that the people of San Antonio and other cities served by Coastal would lose some or all of their electrical power. By a miracle, this was averted, but even now no one knows how long it will be possible for San Antonio to provide all the lighting the city requires, or even fuel for heating and cooking. According to some predictions, Coastal is so deficient that it will not even be able to supply all the gas its customers require for basic human needs, when the winter heating season arrives this year.

It is this crisis that overshadows the legal and administrative struggles that are going on for control of Coastal's gas, and for dividing what little the company can deliver. The question is whether there is enough available to meet even basic human needs.

But beyond this ghastly prospect, there is a struggle going on for control of an industrial empire—a struggle that involves hundreds of millions of dollars as well as the lives and well-being of hundreds of thousands of Texans.

Coastal was obliged to furnish the natural gas requirements of San Antonio for 20 years, at a set price. It was supposed to have all the gas it needed to deliver in fulfillment of this contract. What the company did not have, it was supposed to buy from the revenues generated in the contract. In fact, the opening years of the contract were set at lucrative terms, to give the company the money and incentive it would need to obtain all the gas supplies that San Antonio would need. But now, halfway through the contract, Coastal does not have the gas, and the money has disappeared.

San Antonio has averted catastrophe—so far. But the price has been dear, and the cost in the future will be greater still.

Thus far, San Antonians have had to pay for \$4.34 million worth of fuel oil to burn in place of the natural gas that Coastal has contracted to deliver, but did not. This cost mounts every day, and will rise at a fast rate later this year, as the cost of fuel increases in response to the annual shortage of this community and other factors that are all too familiar to observers of the energy crisis.

So thus far, San Antonians have paid \$4.34 million, not for any failure of their own, but for the failure of Coastal States. But that is not all.

San Antonio is building new electric generating plants, like everyone else. For years, the utility asked Coastal if it could supply natural gas for these plants, so that it could make the proper adjustments. But Coastal would never say whether it could furnish gas or not. We now know that despite their assurances, Coastal could not even provide gas to the plant that we already had in place, let alone anything new. But San Antonio had anticipated otherwise, because Coastal's own board chairman had provided written assurances that Coastal could furnish San Antonio all the gas it needed, for the duration of its contract. Based on this, gas generating plants were designed. Now these new plants must be converted to coal, which is the only feasible alternative we have. This

cost will be \$120 million—an expenditure San Antonio had no reason to anticipate and would never have been committed to if Coastal had lived up to its contract.

Beyond this, San Antonio must pay for conversion of existing gas burning plants to other fuels—also because of Coastal's default. If the conversion to fuel oil is made, the cost will be another \$72 million. This conversion would enable San Antonio to buy and use heavier fuel oil than is now possible for its existing plants.

Altogether then, San Antonio has been committed to spend \$192 million more in utility plant costs that would have been avoided if Coastal had lived up to its contract. And the people of San Antonio have already spent an unnecessary \$4.34 million for fuel. In the future, the State regulatory authority may allow Coastal to increase its contract price for gas by almost 50 percent—notwithstanding Coastal's previous contractual obligations. If this happens, San Antonians would be paying something like \$12 million a year for natural gas that they do not pay today. Coastal's default would in this case cost San Antonio something like \$16 million a year in unnecessary fuel costs, if Coastal continues to default on gas deliveries.

Already this year, the average electric and gas bill in San Antonio has increased by about \$1.90 per month because of Coastal's failure. That increase will go up by very large amounts in the future, as the real effects of Coastal's mismanagement come to be felt.

Incredibly enough, the management that produced this massive loss for San Antonio is still in business, still in the saddle. And the signs are that they will get the full profits they anticipated, and more. The people of San Antonio may lose in excess of \$200 million because of Coastal's scheming. It seems incredible that so few State and local officials seem to care. If this were a tax issue, it would be something else. But it is a tax issue. The robber barons have foisted \$200 million in needless expenditures on San Antonio and its citizens—a tax as surely as the sun rises. It is a tax on human necessity, a cruel, heartless, relentless tax. And those who are responsible for it know that it was unnecessary, know that it was needless, and know that if it had not been for their evil hearts and greedy works, it would have never happened. The tax will be paid by wholly innocent people. It will benefit them nothing because it is necessary only to protect them from destruction—a protection Coastal was supposed to have been providing already, for the price of a half billion dollars. But a half billion was not enough. Two hundred million more is needed, and more besides. And still the robber barons cannot say whether they will—or even can—live up to the requirements of their contract.

I think that we should take all the increases in capital costs, and all the increases in operating costs, brought about by Coastal's machinations, and label those a Coastal surcharge. Then San Antonio should sue Coastal in general and its chief executive in particular, for every dime of that surcharge—two hundred million in capital and tens of mil-

lions in operating costs. San Antonio may have to pay a tax to Oscar Wyatt and Coastal—but that does not mean that the people should cease to resist. He has taken from them already, and will cause them to lose still more in the future. He and his company should never be permitted to escape the consequences of their actions. The people of San Antonio surely will suffer the consequences—but so should the thieves who brought down these terrible, disastrous events.

STATEMENT OF HON. CARDISS COLLINS OF ILLINOIS, UPON INTRODUCTON OF CONCURRENT RESOLUTON CONCERNING THE ADMINISTRATION OF THE FEDERAL WATER POLLUTION CONTROL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS) is recognized for 10 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, over the last 4½ years we, the Congress and the American public, have experienced the greatest turning away from the needs of the people of this country since President Hoover occupied the White House during the great depression. This administration, under the leadership of President Nixon, has reordered the priorities of this country away from the needs of the people to an ever-growing uncontrollable military-industrial monster. This administration has continued to flaunt its beliefs over the congressional intent, vis-a-vis legislation.

The latest example of this is the Federal Water Pollution Control Act amendments—Public Law 92-500. This act was vetoed by the President just before the adjournment of the 92d Congress and that veto was overridden by both Houses of the Congress and, therefore, became law.

In administering the provisions of the bill, the administration, through its agent, the Environmental Protection Agency, has established its own set of priorities in terms of the reimbursement to various units of Government that have attempted to deal with the problems of polluted water. Section 206(b) of the law calls for "the reimbursement of construction costs of water pollution control facilities built between June 30, 1956, and June 30, 1966. The EPA has determined that this section should not be complied with, at least not in the foreseeable future.

Since I became aware of the situation, I have contacted the EPA and their answer was less than satisfactory. Therefore, I have determined that it is necessary for the Congress to remind the EPA and the administration of its obligations, under the law. Today I introduced a concurrent resolution which will do just that, and, at the same time, inform the administration that this Congress is planning to watch over the actions of the executive branch in order to make sure that the present administration, and those that succeed it, are following through on the intent of Congress.

I have attached a copy of the resolution to the end of this statement so that

my colleagues, and the American people, can be made aware of the steps that this Congress is taking.

CONCURRENT RESOLUTION

Whereas the condition of the water systems of this country has deteriorated during the course of our Nation's history; and

Whereas without an attempt to clean up our water systems this Nation faces the possibility of being without a decent water supply; and

Whereas prior to the ever-growing public awareness and outcry over the quality of our environment, a number of State and local governments acted with foresight to forestall disaster befalling this Nation's water systems; and

Whereas with the enactment of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), Congress further recognized the need to halt the decay of our water systems; and

Whereas the law authorized reimbursement to those State and local governments which had the foresight to construct water pollution control facilities years ago: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the Administrator of the Environmental Protection Agency should not administer section 206 of the Federal Water Pollution Control Act so as to establish any system of priorities which provides for the reimbursement of construction costs of water pollution control facilities built after June 30, 1966, prior to reimbursement of construction costs of such facilities built between June 30, 1956, and June 30, 1966.

IRS RULING ON REPORTING FUNDS RECEIVED FOR LEGISLATIVE REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 10 minutes.

Mr. GIBBONS. Mr. Speaker, on February 27 of this year, I inserted into the RECORD (page 5695) a letter that the Internal Revenue Service had sent me in response to an inquiry that I had made to them concerning the proper way in which to report funds that I receive to pay for my legislative reports and questionnaires.

On September 4, 1973, the IRS issued its formal revenue ruling—73-356—on this subject. Following is the complete text of the revenue ruling for the information of my colleagues. "Situation B" outlines the procedure that I have been following.

SECTION 162.—TRADE OR BUSINESS EXPENSES
26 CFR 1.162-1: Business expenses. (Also Sections 61, 62, 102; 161-1, 1.62-1, 1.102-1).

Congressman's newsletters, etc.; receipts and disbursements. Subscription fees or solicited contributions received by a congressman to be used solely to defray the cost of newsletters, reports, and questionnaires sent to constituents are includable in his gross income. Expenses of publishing and distributing such material are deductible as business expenses incurred as an employee; I.T. 4095 superseded.

REV. RUL. 73-356

Advice has been requested as to the tax treatment of amounts received and amounts expended by Congressmen A and B, who use the cash receipts and disbursements method of accounting, in connection with publication and distribution of newsletters, reports, and questionnaires they send to constituents under the circumstances described below.

Situation (A).—Congressman *A* sends out a newsletter at regular intervals to his constituents on matters of general interest such as taxes, social security, foreign relations, and other subjects pertaining to the affairs of the Federal Government and on such matters as his activities and findings in connection with an official inspection trip to foreign countries. To help defray the expenses of producing, printing, and preparing it for mailing, he offers constituents subscriptions to the newsletter for a reasonable price, and sends it to subscribers only. The subscription proceeds are available to Congressman *A* upon their receipt, but he applies all such proceeds to the expenses associated with publication of the newsletter. From his personal funds, he pays the remaining cost of publishing and distributing it. The annual out-of-pocket cost to the Congressman of publishing and distributing the newsletter is less than his annual salary.

Situation (B).—Congressman *B* sends legislative reports to his constituents from 12 to 15 times a year to keep them informed regarding the affairs of the Federal Government and his official activities. He also sends out questionnaires from time to time seeking the opinions of his constituents on various issues. To help defray the costs involved, Congressman *B* solicits contributions, by notation on the reports and by telephone requests initiated by a member of his staff, to be used solely for the printing and related costs of these reports and questionnaires. However, he sends the reports and questionnaires to constituents whether or not they contribute. Contributions received by him in response to these requests are available to him upon receipt but he retains no part of them for his personal services in preparing the materials. They are deposited in a bank account that is segregated from all other funds maintained by Congressman *B*'s office, no part of which account is ever used for campaign purposes. If the fund is insufficient to pay the expenses of publishing and distributing the reports and questionnaires, the Congressman pays the remainder from his own personal funds. Any excess in the fund at the end of any particular year is carried over to the following year to be used for the same purpose. The annual cost to the Congressman of publishing and distributing these materials is less than his annual salary.

Section 61 of the Internal Revenue Code of 1954 provides, in part, that the term gross income means "all income from whatever source derived," including among other things, gross income from business, compensation for services, fees, commission, and similar items.

Section 102(a) of the Code provides, in pertinent part, that gross income does not include the value of property acquired by gift. A gift is generally defined as a voluntary transfer of property by its owner to another with donative intent and without consideration. If a payment proceeds primarily from the incentive of anticipated benefit of an economic nature to the payor, it is not a gift. Where the payment is in return for services rendered, it is irrelevant that the donor receives no economic benefit from it. See *Commissioner v. Duberstein*, 363 U.S. 278 (1960), 1960-2 C.B. 428. Moreover, when a payment is made by a customer to a taxpayer who provides services to assure continuation of those services, that payment is not a gift even though not made in consideration for past or current services. See *Publishers New Press, Inc.*, 42 T.C. 396 (1964), acq., 1964-2 C.B. 7.

Under the facts of Situation (A), the subscription fees are given as direct payment for the publications, and such funds are available to Congressman *A* upon receipt. Therefore, the subscription proceeds received by Congressman *A* must be included in his gross income under section 61 of the Code.

Under the facts of Situation (B), although

the contributions described are not given as payment for the publications, they are made to assure the continued publication of the materials. Therefore, such amounts are not gifts within the meaning of section 102 of the Code.

The performance of the official duties of a Congressman in his trade or business as an elected official includes keeping his constituents informed with respect to the affairs of the Federal Government and his own official actions, and seeking opinions from them on pertinent issues. Thus, any amount received by a Congressman for the purpose of defraying part of the cost of reporting to constituents or of seeking opinions from his constituents is a substantial benefit to him in that it offsets a portion of the cost to him of performing the duties of his office. Therefore, such amounts received by Congressman *B* must be included in his income under section 61 of the Code in the year received.

Furthermore, section 162(a) of the Code provides for the deduction of all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Section 7701(a)(26) provides that the term "trade or business" includes the performance of the functions of a public office.

I.T. 4095, 1952-2 C.B. 90, holds that expenses incurred by a Congressman in printing and addressing a letter to his constituents, which letter consists principally of a report of his activities and findings in connection with an official inspection trip to foreign countries but also contains a brief personal message, qualify as ordinary and necessary business expenses.

Inasmuch as it is considered an appropriate part of the official duties of a Congressman to keep his constituents informed with respect to the affairs of the Federal Government and his official actions, and to seek opinions from them on pertinent issues, the amounts expended in issuing such publications are ordinary and necessary business expenses within the meaning of section 162(a) of the Code. However, under section 62 relating to adjusted gross income, with exceptions not here relevant, expenses attributable to the performance of a trade or business as an employee are deductible only in computing taxable income. Accordingly, these expenses are deductible in the year paid by Congressmen *A* and *B* in the situations described above only if they itemize their deductions.

I.T. 4095 is hereby superseded, since its substance is incorporated in this Revenue Ruling.

SETTLE WATERGATE IN THE COURTS

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the word from the folks back home during the recent recess is really emphasized by the article by Kevin Phillips which was published yesterday in the Columbus, Ohio, Sunday Dispatch:

PEOPLE WANT COURTS TO HANDLE SCANDAL
(By Kevin P. Phillips)

Hats off to Kansas Sen. Robert Dole for his decision to ask the U.S. Senate to end Uncle Sam's Sham, also known as the Watergate committee hearings. Public sentiment seems to be moving in this same direction, witness a whole clutch of August polls. Four opinion samplers asked cross-sections of the American people whether they agreed with President Nixon's Aug. 15 assertion that the Watergate matter should now be left to the courts so that the government could move on to other business. In each poll, the people said "yes."

The Gallup organization found 57 per cent in favor of turning Watergate over to the courts and 38 per cent against (Aug. 15-16).

Polling on Aug. 18-19, Louis Harris found 62 per cent in favor of passing the job to the courts, with just 32 per cent against.

Sindlinger and Co., in an Aug. 16-21 telephone survey, found 67 per cent in favor of the President's position, 29 per cent against.

And an Aug. 18-20 Opinion Research Corp. poll found 65 percent desiring to turn the Watergate affair over to the judiciary, with just 25 per cent opposed.

When four polls come up with the same approximate range of opinion, there isn't much chance of a mistake.

Only Harris and Opinion Research (ORC) asked the direct question whether the Senate Watergate hearings should be stopped and even here comparison is difficult because the two companies used different phraseology.

When Harris asked people whether they favored or opposed continuing the hearings in September, 51 per cent said they favored continuation, 45 per cent came out in opposition.

ORC asked: "Do you believe the Senate hearings on Watergate should be stopped and the whole matter turned over to the prosecutors and the courts, or not?" Fifty-three per cent said they should be stopped and turned over and 35 per cent disagreed. Twelve per cent had no opinion.

Meshing these two profiles, it seems 45 per cent of the people want the hearings stopped cold right now. A clear majority wants to see the hearings stopped—without a precise date—and have the matter given over to the prosecutors.

Data like this are much more suggestive of public attitudes toward the committee than the statistics so often cited: polls on the "personal popularity" of the committee members or the large number of people who watched some or all of the hearings.

If the members of the committee felt the hearings were truly boosting their popularity to new highs, then we would be seeing plans unfold to keep the show going through December, as originally planned. Instead, Sen. Sam J. Ervin has announced an earlier-than-expected Nov. 1 windup date and the North Carolinian has ample motivation.

On Aug. 24, the Wall Street Journal quoted "a close associate" of Senator Ervin as saying that the latter faces "a real fight" in North Carolina next year if he seeks reelection. "Some past Senator Ervin supporters," the paper noted, "complain bitterly that he's out to hurt Mr. Nixon."

The committee is clearly running into trouble. Disclosures by the FBI confirm that the Ellsberg break-in was by no means the first undertaken by the federal government and other FBI documents—which Senator Ervin hypocritically refuses to release—spell out gory details of past Democratic White House spying and political surveillance from Franklin D. Roosevelt to Lyndon B. Johnson.

More and more people are beginning to see the Watergate committee for just what it is—a costly exercise in political hypocrisy that also happens to be paralyzing governmental effectiveness.

When Opinion Research interviewers asked their sample group "Do you believe the Senate hearings on the Watergate matter are helping or hurting the country?" 54 per cent replied that they were "hurting" the country and only 33 per cent saw them "helping."

So much for Senator Ervin's phony civics lesson. Senator Dole is serving his country much better by attempting to bring this tragic, hypocritical farce to an end.

But politics is politics and a growing number of Republicans privately want the hearings to continue with full television focus and fanfare so that the committee can be

even more discredited in public eyes than it is today.

SENIOR CITIZENS FORUM

(Mr. EILBERG asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. EILBERG. Mr. Speaker, the problems of elderly and retired persons have become increasingly acute in the past few months. They have been aggravated by the dramatic increase in the costs of basic necessities, especially food and housing.

There are many pieces of legislation now before the Congress which are designed to deal with these problems. We have had a great deal of advice from "experts" in the field, but not very much input from the elderly who will be affected most by these proposals. For this reason, I recently held a forum for the leaders of senior citizens organizations in my district in northeast Philadelphia.

More than 100 persons attended along with Louis C. Cappiella, executive director, Commission on Services to the Aging for Philadelphia, Jeffrey Ball, deputy secretary for social services for Pennsylvania, Robert Jacoby, specialist on aging, southeast regional office, Department of Public Welfare of Pennsylvania, and Bernard Spector, district manager, Social Security Administration, and we held a frank and spirited discussion of the questions they raised.

While many concerns were discussed, the overriding factor was the need for immediate action.

The fact is, Mr. Speaker, the elderly do not have time for more studies, surveys and investigations. As the head of one group stated:

We can't wait. The insurance companies are making millions by betting that I will not live past 72. We need help now.

At this time I enter into the Record my statement at the beginning of the meeting, the prepared remarks of some of the group leaders who attended and a summary of the oral statements.

ISSUES IN AGING

(By Representative Joshua Eilberg)

I am pleased to have this opportunity to be here with you today. I hope this seminar will help each of us understand more thoroughly the needs of our older people and what might be done to meet these needs.

First, I would like to take a few minutes to discuss some of the major issues in aging today.

As you know, the greatest problem confronting senior citizens continues to be that of an inadequate retirement income. Although significant action has been taken recently to increase the purchasing power of older people, we still do not have a system which assumes economic security for every retired person.

We must also realize that in addition to economic security, older people have other needs. Many depend on supportive social services to lead independent and dignified lives. In general we must examine the deep rooted question of how to put more money in the hands of elderly people and at the same time provide needed social services with the resources available to us.

As you may be aware, the social security program which is the primary income source for most elderly people, was revised signifi-

cantly during the 92nd Congress. The 93rd Congress also has updated this program so that older people can keep pace more effectively during these inflationary times.

On July 9 the President signed into law legislation that will raise the social security benefits paid in July 1974 by 5.9 percent to take account of the rise in the cost of living that occurred from June 1972 to June 1973. This benefit increase will be in effect through December 1974. At that time the automatic cost of living provision enacted during the 92nd Congress will become effective and benefits will be increased again to reflect subsequent increases in the cost of living.

In addition to a benefit increase, the legislation contains a provision that will raise from \$2,400 the amount a social security beneficiary may earn in employment and still receive his full social security benefits.

It also amended the new Federally-administered Supplemental Security Income program for aged, blind and disabled individuals authorized during the 92nd Congress to replace the present Federal-State welfare program for these individuals. The recently enacted legislation would raise the amount a recipient with no other income could receive in July 1974 from \$130.00 a month to \$140.00 for a single person and for a couple from \$195.00 a month to \$210.00.

As you may know this new program also provides that the States may, and in some cases must, provide supplementary payments to people who qualify for the Federal payments. Under the law, the State must supplement for certain people who receive payments under the present State programs for December 1973. This mandatory State payment must assure that these people receive as much in total payments as they received in December.

For people who qualify for benefits after December the State may, if it wishes, make supplementary payments in whatever amounts seem desirable. Unfortunately, Federal regulations on how the program will be operated have not been issued and we do not know what Federal funds will be available to the States for these supplemental payments. As a result, we have been receiving somewhat contradictory information about what action Pennsylvania will take with regard to the supplementary security income program. The effect of the law on the State has changed because of the enactment of the recent amendments. However, representatives of the State and of the Social Security Administration are to meet on Thursday, August 2, to discuss how the State will be affected by the revised program. Following this meeting the State officials will have to make decisions about how and to what degree the State will supplement the Federal payments which will begin in January. Employees of the Social Security Administration who have been working with the State officials feel that the State will take steps to assure that none of the people in the State will suffer when the new Federal program goes into effect.

PROPERTY TAXES

As you know, the property tax is a burden for many persons in all age groups, but it is particularly burdensome for elderly individuals on limited retirement incomes. In 1970, for instance, the average homeowner paid about 3.4 percent of his income in property taxes while elderly homeowners paid on the average of about 8.1 percent. Elderly renters also feel the property tax squeeze in the form of higher rents. Moreover, real estate taxes are expected to soar in coming years causing an even greater burden for our elderly who already are witnessing a depletion of their lifetime savings.

This, as you can see, is a real problem which the Federal Government and the State governments are trying to solve by providing property tax relief for low and moderate income elderly persons. On the State level, there has been a recent and most dramatic upsurge

to provide a form of property tax relief. In Pennsylvania, for example, persons age 65 or over, widows aged 50 or over and permanently disabled persons are entitled to tax assistance against real property taxes due on their homesteads for any calendar year. The amount of the assistance ranges from 100 percent of realty taxes if the individual's annual household income is not over \$999.00 to 10 percent if household income is between \$6,000 and \$7,499. The maximum assistance allowed is \$200.00.

Many persons, however, feel the States have not gone far enough in providing property tax relief and recommend Federal action. Several bills have been introduced in the Congress addressing this matter. Some bills would provide for property tax relief for low- to moderate-income persons through a Federal rebate or refund. The Administration submitted a proposal to the House Ways and Means Committee that would provide a "Federal circuit breaker" to assist the elderly. This means that elderly taxpayers would get a Federal tax credit for State or local property tax payments in excess of a specified amount relative to income.

Some authorities feel that as an alternative to building a circuit breaker directly into the Federal tax structure, the Federal Government might provide States with incentive grants to establish their own State property tax relief programs. Senator Muskie introduced a bill that would do just this. Under his bill, the Federal Government would reimburse States for half the property tax relief provided to low-income homeowners and renters in those States that take appropriate action to reform their property tax system.

HEALTH AND OTHER SERVICES

In addition to improving the income status of senior citizens, the Federal Government and Congress are studying ways to improve health care coverage and services for the elderly. At present, medicare and medicaid affords valuable protection for individuals who have acute or short-term illnesses. These programs, however, do not provide adequate protection for individuals who are afflicted with chronic illnesses and disabilities and who are in need of preventive and therapeutic services which could maintain them within their own homes. As I am sure you are aware, many elderly people are able to live independently in their homes with supportive services. At present, however, there are too few such services available in our communities. For this reason the Federal Government is expending funds for research and demonstration projects designed to provide home-health care services for the elderly as an alternative to unnecessary and costly nursing home care. Home-health services include a wide range of services such as visiting nurses and physical therapists as well as assistance from home-makers who do minimal household chores such as clean, prepare meals, and dress and bathe individuals.

In addition, research and demonstration funds are being used to develop adult day care centers where elderly individuals receive needed services during the day but are able to return to their homes in the evening. The Government also is studying the benefits of adult foster care where elderly individuals live with families who provide a comfortable home and family environment.

Another area which shows great promise for the elderly is housing projects such as the Philadelphia Geriatric Center where residents may receive any level of health care and supportive service they need and still live in their own home. Unfortunately, there are not many housing developments such as this one in the country. Suitable housing for the elderly that also is accessible to health care and social services will meet the needs of many senior citizens in our community. It is my hope that more such projects will be supported in the near future.

Then, too, there is the question of how and what services can be provided for older people by both the Federal Government and the State and local governments.

The Congress overwhelmingly passed the Older Americans Comprehensive Services Amendments of 1973 which was signed into law last May. These amendments provide for continuing and strengthening the programs first legislated under the Older Americans Act of 1965, and provide authority for many new programs. As a result worthwhile community social services such as transportation services, home-helpers, education and recreation activities and many other needed services will be available in many of our neighborhoods. In addition, the legislation authorizes grants to support model projects designed to demonstrate new or improved methods of providing needed services to older American in the areas of housing, transportation, and special services for older handicapped individuals.

It also provides authority for the construction and staffing of multipurpose senior centers as well as authority for a National Information Resource Center where information on a wide variety of programs and topics will be available.

In addition, these amendments provide authority for many other activities such as education programs, an employment program and the expansion of some existing volunteer service programs.

In summary, I would like to emphasize that many doors are open to us as we seek to provide the best possible benefits and services for the elderly in our community. The basic question is how to do it effectively and economically? What is the best mix of money programs and service programs that we can put together with the funds available? I now would like to listen to your ideas, so we can work together to ensure that the elderly of today and tomorrow get the services they both need and deserve.

STATEMENT BY ELIZABETH MAIER (FRANKFORD SENIOR CITIZENS ASSOCIATION AND THE NURSING HOME CAMPAIGN COMMITTEE)

When I am asked to speak to a group, most of whom are interested in the welfare of senior citizens—I feel that I should speak for the senior citizens who—through no fault of their own—are unable to speak for themselves.

I refer to the older people who are confined to nursing homes, boarding homes, and, even, because of their inability to get around, confined to their own homes.

They should enjoy the same rights as are we who are not confined expect and demand—the right to be heard, to be cared for, to be considered politically, and the right to be counted among the living—with their opinions respected and considered. All too often these rights are not extended to them.

Over three years ago the Nursing Home Campaign Committee was formed by a group of forty senior citizens who represent approximately 35 senior citizen groups. Among them are folks from every walk of life and from various creeds and national backgrounds—they represented retirees from sessions, working classes and those of varied interests and all had opinions and expressed them. They met often during the five day seminar and discussed the many problems of senior citizens, and they decided that the problems of folks in nursing homes should have top priority for correction. They elected me their chairman, and I have worked for them in that capacity ever since.

I could talk for hours about my experiences and those of my co-workers but I will not do that now—suffice to say—there are problems in nursing homes—there are a few nursing homes that are very badly in need of correction and there are many nursing homes whose administrators do sincerely try to do a good job—Since boarding homes re-

quire no licensing, and therefore are not required to conform to regulations, conditions in many of them are very bad. The main reason is lack of funds. Nursing homes whose administrators are compassionate enough to accept welfare patients are paid \$15 per day (they claim it costs at least \$22.) It costs the City \$46 a day for patients at Riverview for skilled care—the same care expected from private industry for \$15. Boarding Home residents on DPA are getting \$138 per month (approx. \$4.50 per day.) Many nursing home residents should have medical care and attention. \$4.50 a day will not pay for it.

In January of this year the N.H.C.C. was successful in obtaining a one year grant to expand their work of visiting nursing homes, boarding homes, etc. and endeavoring to correct the grievances of residents in such facilities. This is called the Philadelphia Community Ombudsman Project.

To date we have made progress and have handled more than forty cases since we opened our office on Pratt Street.

On March 1. Because of the reluctance of patients to allow us to use their names and press for a resolution of individual grievances, we have had to handle many cases as general conditions, and such a procedure is not as effective in remedying a situation, as the straight follow through would effect. Because of the great shortage of beds available in Philadelphia—patients are afraid to complain, thinking a complaint might cause them to close their place, and they would have no where to go, and they would rather put up with a bad condition than risk this. Although we assure them this would not happen—they are reluctant.

The solution, as we see it, is to flood the nursing homes and boarding homes with volunteer visitors—folks who would be friends to patients, do small tasks for patients which paid personnel are not required to do—in many cases just listening (sometimes to the same story very often) and talking to patients while they relive in conversation—happy memories, etc. The visitor can make a patient know he is cared about and respected, and if visits are consistent, they are often effective and valuable therapy. Visits and having a friend can and will improve a patient's condition physically and mentally, and will give him confidence to trust this friend so the visitor may help him.

The visiting solution of problems in these facilities is not only a charitable thing to do—it is a citizen's obligation—because the conditions that exist do so because—as a class—citizens have not done what they should have done to prevent bad conditions in homes for the elderly. The people who are really the cause of bad conditions, especially in places that are under the supervision of our government are you—and me—and every citizen who passes the buck—with a feeble expression of sympathy—but no action.

The most frequent method of passing the buck is to blame politicians. This could be amusing if it were not unworthy of the folks who use this excuse. Their reason for "no action" on their part is "that its political and I don't want to get involved." By politicians most people mean our elected officials in government, however politics are the mechanics of life—in which we are immersed from the time of our birth to the time of our death. Politics operate in every walk of life—from friendly enterprises (see Joe Smith and tell him you are a friend of mine)—church matters (tell him you attend my church, etc.) business affairs (I will do something for you if you do this for me) and I could give you many more diversified examples of political maneuvering—nobody escapes the various forms of politics that are practiced daily—and they are not all government inspired. They are a "way of life". This excuse for not doing a civic duty might have been

accepted many years ago when a vast number of citizens were not as well civically educated as they are today—before the days of radio, television, home associations, higher education in schools and the many modern activities that keep every individual informed.

Such a statement today is no credit to a person's opinion of himself.

However, so far as government and so-called politicians (I regard as elected officials) are concerned—they are representatives of the citizens of our country who are interested enough to vote. Elected officials are really persons of integrity who desire to please their constituents—they, however, are not mind readers. It is our duty, first to study the past history of delegates for office—vote for the person we think will do a good job—and after they are in office keep them informed as to how we feel about conditions and how we expect them to vote on issues.

While, as stated above, the practice of visiting facilities is needed and important—we must also work on legislation. Visiting facilities will, to a degree, make up for our previous laxness in not taking care that proper legislation was enforced before this time—we must start immediately and keep abreast of pending legislation—ask our legislators in City, State and Federal government to introduce new legislation that would make it possible to enforce present regulations such as the Life Safety Code—which without financial aid from government could close many nursing homes: the licensing and regular inspections of boarding homes with sufficient staff to inspect: increased financial aid to the elderly who must live in boarding homes or with strangers, so they can pay for the care they require. A substantial increase in payments to nursing homes for folks on public assistance. Seventeen dollars per day is now being considered by the State. It should be at least \$20 per day. Publicly sponsored training for aides and workers who serve in geriatric facilities: Expanded nutrition and home-maker service and health care for elderly folks in their own homes would greatly lower the number of folks to be institutionalized. And to their representatives in government—the City, the State or the Federal—and the greatest guilt should be borne by the folks who regard themselves as too genteel to be involved with politics—I had thought of saying "stupid" but I don't believe that—I think they are too lazy and selfish to do their part—they want only good times and they want only to share in what others achieve for them—they prefer to let George do it.

Since it is rumored that HEW has millions of dollars gathering dust—why not ask them to put it to work by helping the elderly who now need it.

I would ask that you take this message back to your organization and tell them the time to act is long past—something must be done right now to correct the bad situations that we, as citizens, are responsible for. We have no time to lose—any criticism of the City, State, and Federal government can, and should be directed at the citizens who don't bother to vote, don't bother to investigate issues, don't bother to make their wishes known so that our children, and their children (our loved ones) who will, before they realize it—be walking in the shoes of senior citizens, may not have today's problems to contend with.

Let us all get together and get our country straightened out—it seems if it is to be put in good condition—and soon—it is up to the Senior Citizens to do it—and we can.

STATEMENT BY FRANK BRADLEY
(President, Action Alliance of Senior Citizens of Greater Philadelphia)

At the first convention of the Action Alliance of Senior Citizens of Greater Philadel-

phia, February 1, 1973, 1600 senior citizens leaders from 153 senior citizen organizations, many of whom are from the 4th district of Philadelphia, passed 18 resolutions directly related to the well-being of the elderly.

Several of these resolutions are related to bills presently before various committees of the Congress of the United States.

We would like to present four items which the Action Alliance has endorsed as major concerns which you can actively support on behalf of senior citizens.

They are:

1. H.R. 2712 and H.R. 4936 which would allow for drug and optometric coverage under medicare. We would like to add dental care and hearing aids as items also very important to the health care of the elderly.

*We favor the National Health plan as a way of improving health care for all people in the United States.

2. H. Con. Res. 213 which would oppose curtailment of the Medicare program.

3. Passage of a private pension insurance plan as outlined in S-4.

4. Work for legislation to abolish the moratorium on housing which is blocking the building of much needed moderate and low cost housing for the elderly.

Congressman, we ask that you make a special effort to push for the passage of this legislation. With the cost of living increasing at an alarming rate and our small fixed income becoming harder and harder to stretch, the need for the passage of these bills become more and more important. On behalf of the members of the Action Alliance I thank you for this opportunity to express our concerns.

SUMMARY OF ORAL REMARKS

Mary McCann, St. Matthew's Senior Citizens—Measure was passed by Senate but not by House to reduce cost of living and reduce cost of drugs for senior citizens. Would like to see these reductions take place.

George Blake, AARP—Would like to see high cost of living checked and would like discounts on other things beside SEPTA. Personal problem with divorce.

Louis First, Mature Older People—Would like a little park for people with a few benches at 8200 Summerdale Avenue.

Lou Cappiella said that the City was aware of this and was looking into.

James Lynch, Resurrection Senior Citizens and St. Martin's Senior Citizens—Pharmaceutical firms are charging druggists in the U.S. 85% more than druggists in Canada.

Ruth Lynch, Resurrection Senior Citizens and St. Martin's Senior Citizens—Federal pensions should not be taxed by Federal government and State. Legislation has been introduced, but nothing has come out of it.

Harry Silver, Vice President, NARFE—Federal government pensions are taxed. Should not be. Railroad, Social security, etc. are not taxed. At least ten bills have been introduced. Force bills out of committee. At least compromise where first \$4,000 or \$5,000 would be tax free.

Joe Hutter, United Senior Citizens Council of Northeast—Union pensions are also being taxed.

Thomas McDonald, President, Ascension Senior Citizens—Pensions should be increased. Revaluation of government pensions based on five highest years and not three highest years of service.

Jennie Shaffren, Neighborhood Center—All pensions should not be taxed.

Sam Hinkle, Retired Police and Firemen—Food stamp program for elderly should be special and not the same as welfare. People on Medicare should get receipts from doctors or provider of care and not sign receipts without an indication of cost.

Samuel Brosilow, Charles Weinstein Geriatric Center—Need more housing for retired and elderly at low cost.

Cappiella.—Housing is very short. Only housing available is in high crime area. Federal rent controls should be put into effect immediately.

Ellberg.—Introduced on January 2 legislation which would have provided for rent controls. When and if housing becomes available, suggest that a complete line of activities be included. This would have therapeutic value.

Ball.—Late Start Centers will have full line of cultural activities. Having difficulty in getting extra money from State Legislation. Still in State of Confusion. Are proceeding to develop additional centers all over State and in Philadelphia. Bill was introduced by State for revenue sharing funds to be distributed to Late Start Centers.

Elsie Pinkovitz, Association for Concerned Citizens and Friendship Circle—Need new housing for senior citizens. Should have 1% mortgages for people who want to construct housing for elderly.

Mary Moors, President, Upper Holmesburg Civic Association—On behalf of people of Riverview, against development of terminal for foreign cars. Site should be used for housing for elderly and fishing facilities for elderly. Elderly then could go to visit people at Riverview.

Ed Kelly, Executive Dir., Northeast Chamber of Commerce—Believes above should not be at Riverview, but at other parkland (not named). C of C is against foreign car center.

Dennis Rooney, President, Resurrection Senior Citizens:

1. Why are there no centers in Greater Northeast, health, recreation, or otherwise?

2. Why are there no medical care centers for aged in area of foot, eye, hearing, dental care?

3. Why is there no post office in area?

4. Why is there compulsory retirement at 65? This is discriminatory.

5. Discrimination is practiced against elderly persons. Youth vs. elderly.

Jacoby.—Late Start Centers are being planned for. 25% of funds must come from local community. Will be glad to talk to anyone who is interested.

Spector.—Foot care is provided.

Mr. Schultz, Beth Ami Senior Citizens—Dentistry and eye care for older people.

Ellberg.—Legislation has been introduced. Will continue in those directions.

Cappiella.—Health care center will be opened within 6 to 8 months next to library on Cottman Street.

Walter Magee, Cayuga Association—Elderly senior citizens can't get married because they lose money if they marry; therefore, we are making elderly live in illicit relationships.

Spector.—Today, if a widow had been married for at least twenty years, her check will continue.

Bill Muir, NARFE—Wants widow to continue to get her own pension and 1/2 of pension of man she marries.

Leo Bliss, President, Mid-City Senior Citizens—Housing should be provided on federal level. Council should be established in Philadelphia to provide rent control. Miami Beach has this. State legislature gives right to city to provide rent control.

Mark Shore, Federation of Jewish Agencies, Council on Aging—Deals with problems on aging with the main thrust in Northeast.

Michael Tyson, Vice President, Action Alliance—Federal rebates to elderly in regard to real estate taxes. Reassessment program for property tax is driving elderly people out of their homes.

Bill Byrnes, United Council of Senior Citizens in Northeast Second Vice President, Action Alliance—Need for senior citizens center in Northeast. Action Alliance and United Council are nonpartisan, nondenominational noncolor. Have seven officers in 4th Congressional District. All groups should join for self-preservation.

Shirley Lightner, Beth Ami Senior Citizens—People who own homes get rebate on taxes, why not apartment dwellers.

Ellberg.—Must be changed at state level. State legislature working on this.

Sarah Fevar, Charles Weinstein Geriatric Center—Crime is so terrible that people are afraid to go on streets. Criminal should be prevented from walking streets to protect all people.

Joseph Hutter, Vice President, United Council of Senior Citizens in Northeast. St. Matthews Senior Citizens—Social Services for elderly are at bottom of barrel. Relief for elderly for taxes on homes—excess taxation. Implement ideas of National Conference.

Tom Hennessy, Legislative Committee, United Council of Senior Citizens in Northeast—Property tax for city should be removed from Board of Revision of Taxes. What recourse do people have?

Cappiella.—Home Rule Charter is up for revision. Take responsibility for property tax out of Board of Revision of Taxes and place with Finance Department of City Government.

Charles Miller, Jewish Family Service—501,000 elderly in homes for aged and nursing. Don't allow welfare situation to put people out of homes. Propose that people be kept where they are and funds found to keep them there.

Cappiella.—Number of people requiring care is increasing and there are not enough homes. State pays \$15 for care. Legislation introduced to pay \$17. Write to your state legislators. New Jersey gets \$22 a day; therefore, they have more homes. Government must come up with money for nursing care. State funding should be up to cost.

Mrs. Schoener, Chairman of Board, St. Martin's Senior Citizens and Action Alliance—Where do funds come from and does service include everyone in Jewish Family Service?

Mrs. Brov, Jewish Family Service—Funds come from Allied Jewish Appeal and United Fund and service includes everyone.

Irvin J. Sannit, Secretary, Senior Citizens Committee of AFL-CIO Council. Represent all unions—Interested in good health care for elderly. National Health Care introduced by Senators Edward Kennedy and Robert Griffin. S791 introduced by Senator Cranston. Home Preservation Act of 1973. Establishment of Pennsylvania Commission on Aging.

Bill Muir, NARFE—Eliminate nonmarriage period from being deducted from pension. HR30 and S628.

Elsie Pinkovitz, Association for Concerned Citizens and Friendship Circle—Need for a crosstown bus from Broad and Olney to Bridge Street for benefit of elderly.

Jennie Shaffren, Friendship Circle—Wants general increase of 15% in Social Security by 1 January 1974. Wants other items discounted besides SEPTA bus.

Cappiella.—City has a discount list of other items. Call MU6-3504, 143 City Hall.

Thomas McDonald, President, Ascension Senior Citizens—Concerned with the fact that money is taken out of Social Security and put into other funds. How much money is drained out of fund?

Ellberg.—Money must be used to buy U.S. Government Bonds.

Joanna B. Brov, chairman, Services for Older People Board Member, Jewish Family Service—People are too old to work and pensions are not adequate. Have been taken out of welfare and put on Social Security. They lost money in drug payments, etc. Transportation—Not able to get to doctor. Should have transportation facility for elderly.

Dr. Irwin, podiatrist for City of Philadelphia—Look over priorities. Give more to older people of whole Nation. Better understanding of health problems of elderly throughout Nation.

Sam Lieberman—Real estate taxes should be reconsidered for elderly. Medicare payments of elderly are being raised because doctors take advantage of elderly. Rent controls should be instituted.

George Popper, St. Martin's Senior Citizens—Bill introduced to change formula for

Medicare to increase payments to 25% rather than 20% of total bill. Patient should pay 10% of total hospital bill.

Spector.—Administration wants to change Medicare. Not much hope for passage.

Eilberg.—National Health Insurance is on its way.

Mary Moors, president, Upper Holmesburg Civic Association—Take away legislation for maximum income for senior citizens. Bus Route 11 is being discontinued. Used mostly by senior citizens.

Emanual Reustle, AARP, Chapter 33—Allocation for social services for aged and poor is too small.

PERSONAL EXPLANATION

(Mr. SHUSTER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SHUSTER. Mr. Speaker, on June 14, 1973, Flag Day, a quorum call in committee was called at approximately 1:38 p.m. following an appearance before the House by Bob Hope. I was on the floor with my family at that time and I responded to the quorum call by inserting my voting card in the electronic voting terminal in the prescribed fashion. And, as it happens with the vagaries of electronics and the imperfections of man-made machines, my response was not recorded. As a result, the RECORD incorrectly indicates that I was absent for the quorum call, although it also indicates that I was present for an earlier quorum call and for three subsequent votes and a later quorum call. I should like the permanent RECORD to show that I was indeed present for the quorum call in committee, designated roll No. 221 on June 14, 1973.

AGREEMENT REACHED WITH MEXICO ON SALINITY

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, during the congressional recess, it was announced by the White House that an agreement has been reached with Mexico to resolve a dispute between our countries regarding the salinity of the Colorado River. This dispute has been a major irritant in our generally close and friendly relations with our great neighbor to the South, and I am pleased that a final solution has been agreed upon and hopeful that it will receive speedy congressional approval. I commend former Attorney General Herbert Brownell, the chief U.S. negotiator, and his entire staff for the fine job they have done in dealing with this complex problem.

The following article from the New York Times of August 31, 1973, details the major points of the agreement with Mexico:

UNITED STATES AGREES TO DESALT WATER DIVERTED TO MEXICO

LAGUNA BEACH, CALIF., August 30.—The United States announced today that it had reached an agreement with Mexico for the removal of salt from the waters of the Colorado River that are used to irrigate 75,000 acres of land in Mexico.

The agreement, reached last week and formally signed today in Mexico City, calls for

the United States to build a large desalting plant, with a drainage system for dumping the extracted salt into the Gulf of California. These facilities, to cost about \$115-million, must be approved by Congress and can not be completed before 1978.

In the meantime, the United States will supply clean water by diluting the normal flow of the river with fresh water from storage basins.

The facilities to be built by the United States would be payment in lieu of more than \$150-million in claims that Mexican farmers in the Mexicali Valley have lodged over the years against the United States which has polluted the river through its own irrigation practices. Drainage from irrigated land in the Western states carries salt back into the river.

"This agreement is a milestone in the history of our relations with Latin American countries," said former Attorney General Herbert Brownell, who headed a United States study group that worked out the agreement with Mexican authorities.

MET WITH NIXON

Mr. Brownell, who was accorded the rank of ambassador for the purpose of negotiating the agreement, briefed reporters on the provisions here after meeting for one hour with President Nixon at the Western White House in San Clemente.

The agreement, provided that Congress accepts the provisions and appropriates the necessary money, is expected to end a bitter and long-standing dispute between the United States and Mexico.

In 1944, a treaty between the two countries guaranteed that the United States would assure that 1.5 million acre-feet of water would be permitted to flow across the border from the long river that snakes through the Western states. But the treaty had no provision regarding the quality of that water.

An acre foot is the amount of water required to cover one acre to a depth of one foot.

When more and more land in the United States was opened to irrigation, the salinity of the water passing into Mexico doubled by 1961. Mexican farmers charged that the high content of salt, about 1,500 parts per million, killed their crops. The situation was relieved somewhat when the United States diverted some of the impure water through selective pumping of drainage wells and construction of a by-pass drain.

In June of 1972, Mr. Nixon and Luis Echevarria Alvarez of Mexico, meeting in Washington, signed a joint communique that promised a "definitive solution" as soon as possible. The agreement announced today includes the following points:

The United States will construct in Arizona, at a site to be determined, the world's largest desalting plant, a project that is expected to advance desalting technology and thus serve as pilot project for other such plants throughout the world. The estimated cost is \$67-million.

The United States will build a concrete-lined canal to carry the salt water from the desalting plant to the Gulf of California, a distance of about 70 miles. Mr. Brownell said he had been assured that this would cause no ecological damage in the Gulf of California because the gulf is saltier than the water to be dumped into it. The cost of this and improvements included in the agreement is estimated at about \$36-million.

The United States will support a Mexican program to raise money for rehabilitating and improving land damaged by the salty water. This aid will probably take the form of loans through the Import-Export Bank or other institutions.

By July 1, 1974, subject to Congressional authorization, the salinity of Mexico's guaranteed water supply will not exceed by more than a marginal amount the salinity of the river at Imperial Dam, 18 miles north of

Yuma, Ariz., where the water is relatively clean. Most of the salinity develops between Imperial Dam and the Mexican border, because of irrigated lands over salt basins.

Between July 1, 1974, and the time the new desalting facilities are built the purity of the water going into Mexico will be maintained by diluting it with water from storage basins. Mr. Brownell said there was an adequate supply of stored water to assure this.

The agreement includes no provisions for direct payment of damages claimed by Mexican farmers, Mr. Brownell said. He said that the additional expense that the United States will assume in meeting the terms of the agreement will be the full extent of compensation for damage done over the years.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BRASCO (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. ADDABBO (at the request of Mr. O'NEILL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. MELCHER, for Wednesday, September 12, for 5 minutes, to revise and extend his remarks and include extraneous material.

(The following Members (at the request of Mr. MADIGAN), to revise and extend their remarks, and to include extraneous matter:)

Mr. SHOUP, on September 19, for 1 hour.

Mr. HASTINGS, on September 11, for 5 minutes.

Mr. HASTINGS, on September 12, for 5 minutes.

Mr. HOSMER, today, for 10 minutes.

(The following Members (at the request of Mr. BRECKINRIDGE), to revise and extend their remarks, and to include extraneous matter:)

Mr. HAMILTON, today, for 20 minutes.

Mr. GONZALEZ, today, for 5 minutes.

Mr. COLLINS of Illinois, today, for 10 minutes.

Mr. GIBBONS, today, for 10 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EILBERG, and to include extraneous material, notwithstanding the fact that it exceeds 2 pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost \$574.75.

(The following Members (at the request of Mr. MADIGAN) and to include extraneous matter:)

Mr. BELL.

Mr. WYATT.

Mr. FINDLEY.

Mr. O'BRIEN.

Mr. HANRAHAN in two instances.

Mr. BLACKBURN.

Mr. ANDERSON of Illinois in two instances.

Mr. HOGAN in three instances.

Mr. McCLORY in two instances.

Mr. HAMMERSCHMIDT.
Mr. HOSMER in three instances.
Mr. BURKE of Florida.
Mr. HUBER in two instances.
Mr. SYMMS.
Mrs. HOLT.
Mr. MOORHEAD of California.
(The following Members (at the request of Mr. BRECKINRIDGE) and to include extraneous matter:)
Mr. WON PAT in 10 instances.
Mr. HAMILTON.
Mr. BADILLO.
Mr. EVINS of Tennessee.
Mr. RANGEL in 10 instances.
Mr. TEAGUE of Texas in 10 instances.
Mr. DRINAN in five instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. WOLFF in five instances.
Mr. FRASER in five instances.
Mr. WHITE.
Mr. PICKLE in 10 instances.
Mr. DAVIS of Georgia in six instances.
Mr. ADAMS.
Mr. JOHNSON of California.
Mr. BIAGGI in five instances.
Mr. VANIK in three instances.
Mr. DOMINICK V. DANIELS in two instances.
Mr. ROYBAL in 10 instances.
Mr. McSPADDEN in 10 instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1841. An act to amend the Communications Act of 1934 for one year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

S. 1914. An act to provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty, and for other purposes; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6912. An act to amend the Par Value Modification Act, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1885. An act to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands.

ADJOURNMENT

Mr. BRECKINRIDGE. Mr. Speaker, I move that the House do now adjourn. The motion was agreed to; accordingly (at 2 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 11, 1973, 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:

1325. A letter from the Acting Assistant Secretary of the Army (Installations and Logistics), transmitting a report on the demilitarization of various chemical agents and munitions, to the Committee on Armed Services.

1326. A letter from Assistant Secretary of the Navy (Installations and Logistics), transmitting a report on a revised Department of the Navy shore establishment realignment action at the Naval Civil Engineering Laboratory, Port Hueneme, Calif., pursuant to section 613 of Public Law 89-568; to the Committee on Armed Services.

1327. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting a report on a revised Department of the Navy shore establishment realignment action at the Pacific Missile Range, Point Mugu, Calif., pursuant to section 613 of Public Law 89-568; to the Committee on Armed Services.

1328. A letter from the Chairman, Cost Accounting Standards Board, transmitting a new cost accounting standards proposed to be promulgated by the Board, concerning "Accounting for unallowable costs," pursuant to section 719(h)(3) of the Defense Production Act of 1950, as amended; to the Committee on Banking and Currency.

1329. A letter from the Assistant Secretary of the Interior, transmitting descriptions of eight projects selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations, or other institutions, and with private firms, as authorized by section 200(a) of the Water Resources Research Act of 1964, as amended, pursuant to section 200(b) of the act; to the Committee on Interior and Insular Affairs.

1330. A letter from the Vice President for Public and Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of May 1973, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

1331. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated June 1, 1973, submitting a report, together with accompanying papers and illustrations on Mississippi River, East Bank, Warren to Wilkinson Counties, Mississippi, requested by a resolution of the Committee on Public Works, House of Representatives, adopted May 10, 1962 (S. Doc. No. 93-148); to the Committee on Public Works and ordered to be printed with illustrations.

1332. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated June 1, 1973, submitting a report, together with accompanying papers and illustrations on Mississippi River (lower) East Bank, Warren to Wilkinson Counties, Miss. (Vicksburg-Yazoo area), in partial response to a resolution of the Committee on Public Works, House of Representatives, adopted May 10, 1962 (H. Doc. No. 93-149); to the Committee on Public Works and ordered to be printed with illustrations.

1333. A letter from the Federal Cochairman, Four Corners Regional Commission, transmitting the sixth annual report of the Commission, pursuant to section 509 of the Public Works and Economic Development Act of 1965; to the Committee on Public Works.

1334. A letter from the Administrator of Veterans' Affairs, transmitting reports of Veterans' Administration programs during

fiscal year 1973 for the sharing of medical resources and for exchange of medical information, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

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. NEDZI: Committee on Armed Services. Report on the proceedings against George Gordon Liddy (Rept. No. 93-453). Referred to the Committee of the Whole House on the State of the Union.

Mr. HENDERSON: Committee on Post Office and Civil Service. H.R. 6334. A bill to provide for the uniform application of the position classification and General Schedule pay rate provisions of title 5, United States Code, to certain employees of the Selective Service System; with amendment (Rept. No. 93-454). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 9257. A bill to amend chapter 83 of title 5, United States Code, relating to the rates of employee deductions, agency contributions, and deposits for civil service retirement purposes (Rept. No. 93-455). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 1284. A bill to amend title 5, United States Code, to improve the administration of the leave system for Federal employees; with amendment (Rept. No. 93-456). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 3799. A bill to liberalize eligibility for cost-of-living increases in civil service retirement annuities; with amendment (Rept. No. 93-457). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself and Mr. Gude):

H.R. 10124. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON (for himself, Ms. BOGGS, and Mr. ROYBAL):

H.R. 10125. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself and Ms. BURKE of California):

H.R. 10126. A bill to improve the extended unemployment compensation program; to the Committee on Ways and Means.

H.R. 10127. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to permit Federal sharing of the cost of unemployment benefits which extend for 52 weeks; to the Committee on Ways and Means.

By Mr. HELSTOSKI:

H.R. 10128. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service; to the Committee on House Administration.

H.R. 10129. A bill relating to collective bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

By Mr. JOHNSON of Pennsylvania:

H.R. 10130. A bill to allow a credit against Federal income tax or payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. MACDONALD:

H.R. 10131. A bill to require that certain processed or packaged consumer products be labeled with certain information, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mrs. MINK:

H.R. 10132. A bill to amend title 10 of the United States Code in order to permit members of the Armed Forces to make one change of official home of record during active duty; to the Committee on Armed Services.

By Mrs. MINK (for herself, Ms. ABZUG, Mr. BADILLO, Mr. BROWN of California, Mr. EDWARDS of California, Mr. FLOOD, Mr. HARRINGTON, Mr. HAWKINS, Mr. HOWARD, Mr. MOAKLEY, Mr. PATTEN, Mrs. SCHROEDER, Mrs. SULLIVAN, Mr. WINN, and Mr. WON PAT):

H.R. 10133. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities designed to achieve educational equity for all students, men and women, and for other related educational purposes; to the Committee on Education and Labor.

By Mr. MOAKLEY:

H.R. 10134. A bill to require as a condition to the receipt of Federal-aid highway funds that States require gasoline service stations which the States allow to operate on the rights-of-way of limited access highways to honor certain credit cards for the purchase of gasoline, oil, and certain parts and services; to the Committee on Public Works.

By Mr. RHODES (for himself, Mr. CONLAN, and Mr. STEIGER of Arizona):

H.R. 10135. A bill to amend the project for

flood protection on Indian Bend Wash, Maricopa County, Ariz. authorized by the Flood Act of 1965; to the Committee on Public Works.

By Mr. ST. GERMAIN:

H.R. 10136. A bill to accelerate the effective date of the recently enacted increase in social security benefits; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 10137. A bill to amend titles 18 and 28 of the United States Code to establish certain qualifications for the Office of Attorney General, and for other purposes; to the Committee on the Judiciary.

By Mr. SYMMS:

H.R. 10138. A bill to permit the sale of DDT in order to control the Tussock Moth and certain other insects; to the Committee on Agriculture.

By Mr. WHITE:

H.R. 10139. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

H.R. 10140. A bill to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 10141. A bill to amend the Immigration and Nationality Act to provide for the issuance of nonimmigrant visas to certain aliens entering the United States to perform services or labor of a temporary or seasonal nature under specific contracts of employment and fair employment conditions; to require an immigrant alien to maintain a permanent residence as a condition for entering and remaining as an immigrant of the United States; and for other purposes; to the Committee on the Judiciary.

By Mr. WIGGINS:

H.J. Res. 715. Joint resolution proposing an amendment to the Constitution of the

United States relative to the death penalty; to the Committee on the Judiciary.

By Mrs. COLLINS of Illinois:

H. Con. Res. 290. Concurrent resolution expressing the sense of Congress concerning the administration of a provision of the Federal Water Pollution Control Act; to the Committee on Public Works.

By Mr. HUBER (for himself, Mr. ARCHER, Mr. BEVILL, Mr. BLACKBURN, Mr. BROWN of Michigan, Mr. BUTLER, Mr. COCHRAN, Mr. COLLIER, Mr. EILBERG, Mr. GONZALEZ, Mr. GROSS, Mr. GUNTER, Mr. HELSTOSKI, Mr. HUNT, Mr. JOHNSON of California, Mr. KEATING, Mr. MICHEL, Mr. MURPHY of New York, Mr. NEDZI, Mr. POAGE, Mr. QUIE, Mr. REGULA, Mr. ROUSH, Mr. SARASIN, and Mr. WALSH):

H. Con. Res. 291. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. RODINO:

H. Con. Res. 292. Concurrent resolution pertaining to the methods used on animals in research; to the Committee on Science and Astronautics.

By Mr. HARRINGTON (for himself and Ms. HOLTZMAN):

H. Res. 537. Resolution, an inquiry into the extent of the bombing of Cambodia and Laos, January 20, 1969 through, April 30, 1970; to the Committee on Armed Services.

By Mr. RHODES:

H. Res. 538. Resolution to establish a select committee of the House of Representatives to investigate actions necessary to locate Americans reported missing in action while serving as members of the Armed Forces in Southeast Asia during the Vietnam conflict, to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

294. The SPEAKER presented a memorial of the Legislature of the State of California, relative to aviation user taxes; to the Committee on Interstate and Foreign Commerce.

SENATE—Monday, September 10, 1973

The Senate met at 12 o'clock noon and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, our Father, we thank Thee that through Thy grace and power our forefathers gained the freedom and the self-government under which we live as a priceless heritage. In these testing times, as in crises long past, wilt Thou impart wisdom, patience, and conciliation to the President and to the Congress that they may concert their best efforts to advance the Nation's well-being and secure peace and justice in the world. May Thy spirit come upon our common life with redemptive and healing grace that the government of the people and for the people may rest securely on the sure foundation of truth and morality and pure religion. Inspire us daily to wait upon the Lord from whence comes all our help. And to Thee shall we render all praise and thanksgiving. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. ABOUREZK) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 7, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VII, be dispensed with.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Georgia (Mr. TALMADGE) is