these men and ease the years-long anguish of their families; now, therefore, be it

Resolved by the Senate of Maryland, That its members express their feelings of greatest sympathy for the more than 1,200 families all across this country who continue to live with the incredible agony of not knowing where their husbands, sons and fathers are, and whether they are dead or alive; and be it further

Resolved, That the Senate of Maryland continue to pay tribute to these men through an annual resolution in the Senate and through the Maryland Freedom Tree, now growing on the State House lawn as a living memorial to all prisoners and missing in action; and be it further

Resolved, That copies of this Resolution be sent to Maryland Senators Charles Mathias and J. Glenn Beall; members of the Maryland delegation to the U.S. House of Representatives; the U.S. Secretaries of State and Defense; the U.S. Representative to the United Nations; the Maryland Chapter, National League of Families of American Prisoners of War and Missing in Southeast Asia; the national office of VIVA (Voices in Vital America); Le Duc Tho of North Viet Nam; M. Phoumi Vongvichit of Laos; and Col. William W. Tombough, Chief of the U.S. Delegation to the Four Power Joint Military Team in Paris, and families of Maryland men who have been prisoners or who are missing in action in Southeast Asia.

TRIBUTE TO THE GENTLEWOMAN FROM WASHINGTON, JULIA BUTLER HANSEN

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. SHRIVER. Mr. Speaker, I want to join with the many Members of the House of Representatives in paying tribute to the distinguished gentlewoman from Washington, Mrs. JULIA BUTLER HANSEN.

It has been my privilege and pleasure to serve with Mrs. HANSEN on the Committee on Appropriations and, for a time, on the Subcommittee on Foreign Operations. Her commonsense response to problems both foreign and domestic has impressed and inspired Members on both sides of the aisle.

JULIA HANSEN also serves as chairman of the Interior Subcommittee, notably serving as the first of her sex to be assigned to chair a subcommittee in either the House of Representatives or the U.S. Senate. She has done an outstanding job in a leadership position and has always been responsive to the needs of our congressional districts.

Mrs. HANSEN is a product of a genuine western heritage. She is a product of 37 years of elective service to the people at the city, State and Federal levels. All of this experience has combined in our madame chairman to produce a political intelligence that is rare, even in this body. She knows what it is all about; she knows how to get things done.

Her State of Washington and the entire Pacific Northwest will surely miss her effective representation in the Congress. However, I have a feeling they will still benefit from her drive and leadership as she returns to Cathlemet. Things had better be ship-shape there, or else.

Along with other Members of Congress, I was amused by Mrs. HANSEN's remarks on announcing her decision to leave the House. Each of us, at times, has felt the urge to hang up the telephone or not answer the door. But I know that JULIA has also enjoyed the honor and privilege of such a long period of service to her constituents and her Nation. This service will no doubt continue, and we all wish her and her family happiness in the years ahead.

RUTH M. VALENZUELA OF MONTEREY PARK HONORED BY RED CROSS

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. DANIELSON. Mr. Speaker, I was very pleased to learn recently that a resident of my congressional district, Ruth M. Valenzuela of Monterey Park, Calif., is one of four winners of the 1974 Ann Magnussen Award, presented by the American Red Cross in recognition of outstanding nursing leadership and service in the community.

Mrs. Valenzuela has been involved with the Red Cross for 3 years in the field of health education. She is the developer, organizer, and promoter of health education programs for the Spanish-speaking population of Los Angeles County. She has gained the love and respect of the Spanish-speaking people through her work in community classes and small group discussions, as well as through her appearances on the regularly-scheduled television program, "Usted y Su Salud"—You and Your Health.

Los Angeles County is indeed fortunate to be served by such a highly motivated and dedicated person as Mrs. Valenzuela. It is certainly fitting that her efforts will be recognized through the presentation of the Ann Magnussen Award. In the words of George M. Elsey, president of the American National Red Cross,

Mrs. Valenzuela, in the opinion of the judges and all who have known her, epitomizes the highest ideals of nursing and humanitarian volunteer service.

HOUSE OF REPRESENTATIVES—*Thursday, March 14, 1974*

The House met at 12 o'clock noon.

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

Create in me a clean heart, O God, and renew a right spirit within me.—Psalms 51: 10.

Almighty God, our Father, open our minds to the call to turn away from the evil and error of our ways and to think about the destiny of our country in the light of eternal truth and enduring love.

We have not handled wisely the life Thou hast given us. We have left undone those things which we ought to have done and we have done those things we ought not to have done. Humbly do we confess our sins and our shortcomings and pray that Thou wilt make us ready to receive Thy forgiveness.

Strengthen us in our resolve to amend our ways and lead us in the paths of righteousness and good will. May peace and harmony abide in our hearts, in our Nation, and in our world.

Hear us as we offer our prayer in the spirit of Jesus Christ. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

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

H.R. 13025. An act to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act.

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

S. 1353. An act to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials;

S. 1401. An act to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes; and

S. 3075. An act to amend the Agricultural Adjustment Act of 1938.

WRONGDOING IN HIGH PLACES

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

Mr. O'NEILL. Mr. Speaker—

This administration has proved that it is utterly incapable of cleaning out the corruption which has completely eroded it and reestablishing the confidence and faith of the people in the morality and honesty of their Government employees.

The investigations which have been conducted to date have only scratched the surface. For every case which is exposed, there are 10 which are successfully covered up.

Mr. Speaker, these are not my words, and they were not spoken about Watergate—although they certainly fit Watergate. This is one of the most powerful denunciations of wrongdoing in high places that I have ever heard. And it was uttered by someone who should know.

I am quoting Richard Nixon who as a U.S. Senator spoke those words at the Hotel Statler in Boston on November 13, 1951. That speech has turned out to be prophetic and Parade magazine recently ran excerpts from it. Senator Nixon went on to blast the moral standards of this administration and the racketeers who get concessions on their income tax cases.

The Senator did not always have substantiation for his charges, but he made them anyway. Today, seven high Nixon administration officials—including two former Cabinet officers and the two former chief Presidential advisers—are under indictment. The income tax concessions in question today are those of the President himself.

In 1951 Senator Nixon said:

> The great tragedy is not that corruption exists but that it is defended and condoned by the President and other high administration officials.

That speaks for itself. It ought to remind us once again of the responsibility that faces us all in the House of Representatives.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 88]

Abzug	Ford	Price, Tex.
Annunzio	Fraser	Quie
Archer	Gibbons	Rangel
Armstrong	Gray	Rees
Blatnik	Green, Oreg.	Reid
Boggs	Gubser	Rhodes
Boland	Hanna	Riegle
Bolling	Hébert	Robison, N.Y.
Brasco	Jarman	Rooney, N.Y.
Brotzman	Johnson, Colo.	Runnels
Brown, Ohio	Kluczynski	Ruppe
Burke, Calif.	McCormack	St Germain
Carey, N.Y.	McEwen	Teague
Chisholm	McKay	Whitten
Clark	Macdonald	Wilson, Charles H., Calif.
Clay	Metcalfe	
Collier	Mizell	
Collins, Ill.	Mollohan	Wilson, Charles, Tex.
Conyers	Montgomery	
Dellums	Mosher	Wolff
Diggs	Murphy, Ill.	Young, Ga.
Dorn	Patman	Whitehurst
Downing	Pepper	Young, Ill.
Dulski	Pickle	Zwach
Evans, Colo.	Pike	
Foley	Podell	

The SPEAKER. On this rollcall 359 Members have recorded their presence by electronic device, a quorum.

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

AMENDMENT TO H.R. 69, ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS

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

Mr. WON PAT. Mr. Speaker, the following amendment to H.R. 69, as reported, may be offered by myself or other Members when that bill is read for amendments:

AMENDMENT TO H.R. 69, AS REPORTED, OFFERED BY MR. WON PAT

Page 28, line 15, strike out "1" and insert in lieu thereof "2".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following: "The Commissioner shall allot (A) 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining 50 per centum of such amount so appropriated to the Secretary of the Interior (i) to make payments pursuant to subsection (d) (1), and (ii) to make payments pursuant to subsection (d) (2)."

FIREFLY LIGHTS WAY IN ENERGY CRISIS FOR PENNSYLVANIA

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

Mr. COUGHLIN. Mr. Speaker, for those of us who have been locked in combat with the Federal Energy Office over fairer gasoline allocations for our States and communities, I have cheering news from Pennsylvania's Capital, Harrisburg, where State legislators have enlightened the energy situation.

The Pennsylvania Senate has passed a bill to make the firefly—lightning bug, glowworm, or whatever you prefer to call it—the official insect of the Commonwealth of Pennsylvania. Since I am not sure whether any other State has an official insect, it never bugged me that Pennsylvania might snatch the initiative and designate an official insect.

The timeliness of the firefly as a State insect must be apparent to all of us and I am indebted to my former colleague, the Honorable Clyde Dengler, for introducing the measure at the behest of schoolchildren in his district. I think the firefly makes more sense as a State insect under present circumstances than, let us say, the locust—a bane to our crops especially under today's conditions—or the gnat—it takes bug repellant with a petroleum base to shoo it away.

While the Pennsylvania House waits to act on making the firefly the official State insect, I thought the appropriateness of the selection should be noted. I am undecided on whether to dedicate these lyrics to my former colleagues in Harrisburg or to my dear friends in the Federal Energy Office.

I offer this refrain, sung to the tune of "Glow-Worm" for consideration as the official Pennsylvania insect song:

Shine! little glow-worm, glimmer! glimmer!
As gasoline supplies grow slimmer!
Lead us! Lest octane we squander!
While high prices beckon yonder!
Shine! little glow-worm, glimmer! glimmer!
As gasoline supplies grow slimmer!
Light the path! Exxon and Shell!
And find us gas to sell!

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT FRIDAY TO FILE REPORT ON H.R. 12435, AMENDING FAIR LABOR STANDARDS ACT

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent for the Committee on Education and Labor may have until midnight on Friday, March 15, to file the report to accompany H.R. 12435, to amend the Fair Labor Standards Act.

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

There was no objection.

FUNDS FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 778 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 778

Resolved, That the further expenses of the investigations and studies to be conducted pursuant to H. Res. 187 by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $203,000, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $50,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, the resolution before us is for the Committee on Merchant Marine and Fisheries. It has been agreed upon unanimously by the members of the committee. It is the same amount as in the first session.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON AGRICULTURE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 810 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 810

Resolved, That, effective from January 21, 1974, the expenses of the investigations and studies to be conducted pursuant to H. Res. 72, by the Committee on Agriculture, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $12,500 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the Chairman of the Committee on Agriculture shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution relates to the Committee on Agriculture. It has been agreed upon by the majority and the minority. It represents a mere $11,000 more than last year, that being caused by the fact that that committee was delayed in organizing slightly last year.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON EDUCATION AND LABOR

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 855 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 855

Resolved, That further expenses of the investigations and studies to be conducted pursuant to H. Res. 175, by the Committee on Education and Labor, acting as a whole or by subcommittee, not to exceed $1,180,000, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Of such amount $90,000 shall be available for each of the eight standing subcommittees of the Committee on Education and Labor reduced by that amount of the funds made available to such subcommittee from the contingent fund by H. Res. 181 in the first session of this Congress which is still available to and is unexpended by such subcommittee as of February 15, 1974, according to the official records of the Clerk of the House. However, not to exceed $15,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation of the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Education and Labor shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution is a funding resolution for the Committee on Education and Labor. It represents the same amount as last year. It was unanimously agreed upon.

Mr. PERKINS. Mr. Speaker, I take this time to state for the RECORD our committee interpretation of this modified resolution and to advise the House on how moneys will be allocated under the resolution, if it is approved.

As is always the case with the budget of the Committee on Education and Labor, the interpretation and procedures as outlined were worked out in consultation with the chairmen of our subcommittees and with the ranking minority member.

As provided in the resolution $1,180,000 in new moneys will be provided to the Committee on Education and Labor. Of this amount, each subcommittee will be allocated an amount equal to $90,000 less the balance in their respective accounts as of February 15, 1974. We have identified those specific February 15 balances and at the end of my statement, I will insert in the RECORD a chart showing the amount in new moneys each of the subcommittees will be allocated.

The balance of the $1,180,000 after subcommittee accounts receive their allocation is available for the committee majority and the committee minority. As has been the practice in our committee, the minority will be allocated 25 percent of the total amount available to the committee for the second session.

Taking into account the total in new money provided in this resolution and the total carryover of funds to the second session, the minority will have available a total of $387,500, computed:

Amount of new money	$257,588.89
Carryover funds as of January 3, 1974	129,911.11
Total	387,500.00

The remaining balance after subcommittee and minority allocations is budgeted for full committee majority.

A chart listing the subcommittee allocations of new moneys for the second session of this Congress follows:

Subcommittee:	*New Money*
Number 1	$84,824.24
Number 2	86,933.51
Number 3	74,183.08
Number 4	77,282.82
Number 5	84,948.00
Number 6	84,819.60
Number 7	78,781.56
Number 8	86,967.38

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEES ON SCIENCE AND ASTRONAUTICS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 793 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 793

Resolved, That, for the further expenses of the investigations and studies to be conducted pursuant to H. Res. 253, by the Committee on Science and Astronautics, acting as a whole or by subcommittee, not to exceed $400,000 including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $25,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Science and Astronautics shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 793 is for the Committee on Science and Astronautics. It repersents the same expenditure as in the first session. It was unanimously agreed upon by the minority and the majority.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON GOVERNMENT OPERATIONS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 846 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 846

Resolved, That the further expenses of conducting the studies and investigations authorized by rule XI(8) and H. Res. 224 of the Ninety-third Congress, by the Committee on Government Operations, acting as a whole or by subcommittee, not to exceed $891,300, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, which shall be available for expenses incurred by said committee or subcommittee within and without the continental limits of the United States, shall be paid out the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $75,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Government Operations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 846 is for the purpose of funding the Committee on Government Operations. It represents the same amount as was authorized in the first session. It was agreed upon by the majority and the minority.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 814 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 814

Resolved, That effective January 3, 1974, the expenses of the investigations and studies to be conducted pursuant to H. Res. 180, by the Committee on Post Office and Civil Service, acting as a whole or by subcommittee, not to exceed $535,500, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $100,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Post Office and Civil Service shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this is the funding resolution for the Committee on Post Office and Civil Service. It has been agreed upon unanimously by the Chairman and ranking member of the Committee, the gentleman from Iowa (Mr. GROSS).

Mr. Speaker, this represents an amount of $48,000 in excess of the moneys used in the first session, which amount has been fully justified to the satisfaction of the subcommittee of the Committee on House Administration.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON VETERANS' AFFAIRS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 789 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 789

Resolved, That for the further expenses of the investigation and study authorized by H. Res. 134 of the Ninety-third Congress incurred by the Committee on Veterans' Affairs, acting as a whole or by subcommittee, not to exceed $120,000 in addition to the unexpended balance of any sum heretofore made available for conducting such study and investigation, including expenditures for the employment of experts, consultants, and clerical, stenographic, and other assistance, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof and approved by the Committee on House Administration. Not to exceed $18,000 of the amount provided by this resolution may be used to procure the temporary or intermit-

tent services of individual consultants or organizations thereof pursuant to section 202 (1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)), but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The official stenographers to committees may be used at all meetings held in the District of Columbia unless otherwise officially engaged.

SEC. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Veterans' Affairs shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 789 is for the funding of the Committee on Veterans' Affairs. It represents a modest increase, which is well justified, of $12,037.78 over the amount in the first session. It has been agreed upon by the majority and the minority.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON BANKING AND CURRENCY

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 800 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 800

Resolved, That the further expenses of conducting the investigations and studies authorized by H. Res. 18, Ninety-third Congress, incurred by the Committee on Banking and Currency, acting as a whole or by subcommittee, appointed by the chairman of the committee, not to exceed $912,000, in addition to the unexpended balance of any sum heretofore made available for conducting such investigations and studies, including expenditures for employment, travel, and subsistence of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistance, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $100,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose. Not to exceed $388,000 of the total amount provided by this resolution (in addition to the unexpended balance of any sum heretofore made available for the expenses of the Housing Subcommittee of the Committee on Banking and Currency) shall be made available for the expenses of the Housing Subcommittee of the Committee on Banking and Currency in accordance with this resolution which shall be paid on vouchers authorized by such subcommittee, signed by the chairman of such subcommittee or the chairman of the committee, Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Banking and Currency shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 800 represents the funding resolution for the Committee on Banking and Currency. It has been agreed upon by the majority and the minority, and represents a modest increase of $8,000 more than in the first session.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 977 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 977

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. 12471) to amend section 552 of title 5, United States Code, known as the Freedom of Information Act. 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 Government Operations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA), is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California, Mr. DEL CLAWSON, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 977 provides for consideration of H.R. 12471, which, as reported by our Committee on Government Operations, would strengthen the procedural aspects of the Freedom of Information Act by amendments to that act. The major amendments would accomplish the following: First, clarify language in the act regarding the authority of the courts, relative to their de novo determination of the matter, to examine the content of records alleged to be exempt from disclosure under any of the exemptions in section 552(b) of the code; second, amend language pertaining to national defense and foreign policy matters, in order to bring that exemption within the scope of matters subject to an in camera review; and third, add a new section to the act to provide for mechanism to strengthen congressional oversight in the administration of the act by requiring annual reports to House and Senate committees on requests and denials of requests for information.

Mr. Speaker, House Resolution 977 provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, after which the bill would be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the committee would rise and report the bill to the House with such amendments as may have been adopted. The previous question shall then be considered as ordered on the bill and amendments thereto to final passage, without any intervening motion except one motion to recommit.

The committee report estimates that costs required by the bill should not exceed $50,000 in fiscal year 1974 and $100,000 for each of the succeeding five fiscal years.

Mr. Speaker, H.R. 12471 represents the first changes recommended to the Freedom of Information Act since that landmark law was enacted by this Congress in 1966. The changes and clarifications proposed in this bill are modifications recommended by a unanimous vote of the Government Operations Committee. Its members in their wisdom, have clearly determined that a pressing need exists

to lift the secrecy which continues to shroud our Federal agencies. The aim of this measure is to correct the dangerous inadequacies revealed by thorough investigative hearings conducted by the committee's Foreign Operations and Government Information Subcommittee during 1972, as well as through frustrating personal experiences of many in this hall in their dealings with Federal agencies.

Many of the proposed amendments are procedural in nature yet crucial to the intended purposes of the act. The amendments would improve the currently confusing and inadequate indexes of information now available in some agencies. It would correct the procedures for identification of records required by the act. It would require prompt agency responses to requests and provide for reasonable legal cost incurred by aggrieved plaintiffs who are refused mandated agency action on their legitimate requests. This provision would help cover their actions in Federal court to compel uncooperative agencies to release information which properly should be open to public inspection.

There are three more substantive provisions in the bill which warrant our full deliberation. One provision would clarify existing language regarding the authority of the courts to examine the content of agency records alleged by their custodians to be exempt from disclosure under section 552(b) of the code. Another provision would permit in camera review by the courts of matters pertaining to national defense and foreign policy, as defined by criteria established by Executive order. This will permit such matters to be included with the existing provision in the act which currently allow in camera review in nine delineated areas. I refer to section 552(b) of the code.

The third major provision would strengthen the mechanism for congressional oversight in the administering of the act. This amendment would require the filing of annual reports by the agencies to House and Senate committees. These reports would delineate statistical data and other information on denials of requests under the act, administrative appeals of denials, rules promulgated by the agencies, and fee schedules and funds collected for searches and reproduction of requested information.

Mr. Speaker, the purpose of this bill is to insure that the people's right to know what their Government is doing will be protected and that their access to legitimate information will be unimpeded. The Freedom of Information Act was intended to help make the democratic process work by assuring that the conduct of Government in our republic would remain open for all to view, except where genuine national security and foreign policy concerns would be jeopardized. The intent was, and is, to assure that our people will remain an informed and enlightened citizenry.

Experience has taught us, however, that the scope of this legitimate shield which was provided by the act could be stretched to suit particular partisan or personal purposes. It could be extended to veil matters unfavorable to the custodian agency or embarassing to the officials therein.

What this bill would do is require those agencies which have resisted proper public scrutiny to produce to a Federal judge valid reasons based on compelling national security and foreign policy interests explaining why the American people should not know of the agency's activities or policies. All of this would be done in the strictest secrecy in the closed chambers of a Federal judge. Those agencies which claim the need for secrecy will have their confidentiality safeguarded, unless, of course, the court finds their claim unreasonable. The public, including the press and the Congress, will be assured that the determination of what should be kept secret will be decided by an impartial party, not by the whim of an overly protective bureaucrat or agency official who may, under the present law, cast the cloak of national security over every detail of agency business. The bill, in brief, provides for the fullest measure of protection for legitimate Government secrets while allowing for disclosure of that which the public is entitled to know.

Mr. Speaker, as a cosponsor of this measure and of the original act, I firmly believe that this bill, the product of months of intensive investigation and review by the respected members of the Government Operations Committee, offers a sensible and workable compromise between the requirements of a democratic Government and the appropriate needs of Government and national security.

I congratulate the most distinguished chairman of the committee, my dear friend and colleague from California, CHET HOLIFIELD, and the hard-working principal sponsor of this bill, my respected colleague, BILL MOORHEAD, for their reasoned approach to this vital legislation.

Mr. Speaker, I urge the adoption of House Resolution 977 in order that H.R. 12471 may be considered and passed overwhelmingly.

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

Mr. Speaker, the gentleman from Hawaii (Mr. MATSUNAGA) has explained the bill thoroughly, also the resolution, but let me just summarize very quickly:

Mr. Speaker, House Resolution 977 is the rule providing for consideration of H.R. 12471, the Freedom of Information Act Amendments. This is an open rule with 1 hour of general debate.

The purpose of H.R. 12471 is to provide easier access to Government documents for the public.

The bill sets rigid time limits on the agencies for responding to information requests, shortens substantially the time for the Government to file its pleadings in Information Act suits, and authorizes the award of attorney's fees to successful plaintiffs in such suits. In addition, each agency is required to submit an annual report to Congress evaluating its performance in administering the act and "agency" is defined to include the Executive Office of the President.

The committee report estimates the cost of this bill at $50,000 for the remainder of fiscal year 1974, and $100,000 for each of the succeeding five fiscal years.

Mr. Speaker, I urge the adoption of this rule in order that the House may begin debate on H.R. 12471.

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

Mr. MATSUNAGA. Mr. Speaker, I have no requests for time.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill that we are about to consider, H.R. 12471 (to amend the Freedom of Information Act).

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

There was no objection.

FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. MOORHEAD of Pennsylvania, 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. 12471) to amend section 552 of title 5, United States Code, known as the Freedom of Information Act.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

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. 12471, with Mr. ECKHARDT 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 Pennsylvania (Mr. MOORHEAD) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will be brief in my remarks explaining the bill, which has the bipartisan support of the membership of our committee and which was reported unanimously by the Government Operations Committee last month.

H.R. 12471 is a bill to insure the right of the public to ask for and receive information about what their Government is doing. It contains amendments, essentially procedural in nature, to the Freedom of Information Act, for the most part setting ground rules by which the Federal agencies must respond to inquiries from the public.

The major substantive provision of this bill clarifies the original intent of Congress that executive agency decisions to withhold information from the public may be reviewed by the judicial branch of Government.

H.R. 12471 is the result of over 2 years of investigative and legislative hearings by the Foreign Operations and Government Information Subcommittee. It represents the first overhaul of the Freedom of Information Act since its original enactment in 1966. That milestone law guarantees the right of persons to know about the business of their Government, subject to nine categories of exemptions whose invocation is, in most cases, optional.

At the time the original Freedom of Information Act was passed by the Congress in 1966, it was recognized that continual oversight by the Committee on Government Operations would probably result in the recognition that amendments would be needed in the future. In 1972, the Foreign Operations and Government Information Subcommittee commenced extensive investigative hearings resulting in the unanimous adoption by the Government Operations Committee of House Report 92–1419 in September 1972. That report contained both administrative and legislative recommendations.

As a result of many days of hearings and more days of markup, H.R. 12471, cosponsored by all but one member of the subcommittee, was introduced as a clean bill, was voted out favorably by the subcommittee by a vote of 8 to 0, and was unanimously reported by the full committee.

H.R. 12471 is mostly procedural in nature and is designed to strengthen the operation of Federal information policies and practices. Essentially, the bill seeks to do this by seven amendments which, by the time the subcommittee had worked its will, should be, and were in the committee nonpartisan and noncontroversial insofar as Members of Congress are concerned:

The amendments are as follows:

Amendment No. 1—Section (a) Indexes:

Requires agencies to publish indexes of important actions taken by them to make such actions more readily available to the public.

Amendment No. 2—Section 1(b) Identifiable records:

Eases the technical burden on the public by changing the words of the public request from "for identifiable records" to a request which "reasonably describes such records."

Amendment No. 3—Section 1(c) 7 Time limits:

Sets a fixed time of 10 working days for response, 20 working days for administrative appeal and 20 days for a responsive pleading to a complaint in a district court.

Amendment No. 4—Section 1(e) Attorney fees and court costs:

Allows the court at its discretion to award reasonable attorney fees and costs to plaintiffs who prevail in freedom of information litigation.

Amendment No. 5 —really two amendments—Section 1(d) and section 2, Court review:

Would, among other things, overrule the Supreme Court decision in EPA against Mink, by first making it clear that a court may review records in camera and,

Second, authorizing a court to look behind a security classification label to see if a record deserved classification under the "criteria" of an Executive order.

Amendment No. 6—Section 37 Reports to Congress:

Requires affected agencies to submit annual reports to the appropriate committees of the Congress on their freedom of information activities.

Amendment No. 7—Section 37 Definition of "agency":

Expands the definition of agency for the purposes of the Freedom of Information Act to include the Executive Office of the President, Government corporations, and Government controlled corporations, as well as those establishments already recognized as Federal agencies.

The amendments to the Freedom of Information Act provided for in H.R. 12471 would take effect 90 days after enactment.

Mr. Chairman, I want to stress again the bipartisan nature of and support for this bill. It is a carefully drafted piece of legislation which I feel strikes the proper balance between efficient Government operations and the public's "right to know."

This bill has been unanimously approved by the Foreign Operations and Government Information Subcommittee and the full Government Operations Committee and merits the support of this House.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to my friend, the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Chairman, I am one of an overwhelming majority of this House who will be in support of the legislation before us this afternoon. I will confess to some sense of trouble over the portion of the bill to which the able subcommittee chairman has just referred, the definition of agencies and organizations to be affected by the amendments.

The reference to Government-controlled corporations in the legislation itself raises no red flags. I am, however, troubled by the report accompanying the bill which reads on page 8 as follows:

The town "Government controlled corporation," as used in this subsection, would include a corporation which is *not* owned by the Federal Government, such as the National Railroad Passenger Corporation (Amtrak) and the Corporation for Public Broadcasting (CPB).

The Corporation for Public Broadcasting, as the gentleman knows, was created by Congress as a means of pumping Federal money into broadcasting without having Federal control over broadcasting. It seems to me that this arrangement very happily met the first amendment requirements for this type of organization. We wanted to find some way of providing Federal assistance to educational and public broadcasting needs—which includes the coverage of public events and often political subjects. There have been ongoing efforts to find a means of financing this organization which would keep Congress, which would keep the executive branch, and which would keep politicians at any level out of policymaking in public broadcasting.

I think that this administration, while it was chided by our Committee on Interstate and Foreign Commerce many times for what we thought was its slowness in coming up with long-range financing plans, did act in good faith and out of the same sense of responsibility we all felt in Congress for maintainnig the independence of this very sensitive broadcasting operation.

This was by no means intended to be a Government information agency or a Government broadcasting agency. I know the gentleman in the well feels as strongly as I do the necessity of protecting the Corporation for Public Broadcasting against the intrusion of political action.

Would the chairman be kind enough to comment on this phase of the legislation?

Mr. MOORHEAD of Pennsylvania. I would say to the gentleman that if in fact of law the Public Broadcasting Corporation is not a Government-controlled corporation, then the words of the statute and not the words of the report would control. I would also say to the gentleman that this is not a bill to provide Government access to information but it is for the people, the individual citizens across this country. I think the language of the statute would control over the language of the report.

Mr. VAN DEERLIN. If the gentleman will yield further, the right of the individual inquiry is backed up by the majesty of Government through this legislation. Where it would concern an organization such as Amtrak, I would say hooray.

But I do raise the question in regard to the CPB, and I am glad for the opportunity the chairman of the subcommittee has provided to make legislative history on this. In my opinion there would never be a question on which the Corporation for Public Broadcasting would seek to hide information. They have always testified freely before both our committee and the Committee on Appropriations, but I think we must be ever mindful of the necessity for guarding a sensitive agency such as this against political inquiry.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I appreciate the gentleman yielding to me. On page 4 of the bill, the bill does recite that on or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year, and then names the specific committees to receive the reports.

I wanted to advise the gentleman that I intend to offer an amendment that in accordance with rule XXIV of the House the submission of reports would be to the Speaker of the House and to the President of the Senate, who would then submit it to the appropriate committees.

Would the gentleman have any objection to the submission?

Mr. MOORHEAD of Pennsylavnia. At first blush, I would not. I would like to submit it to my colleague on the other side of the aisle.

I want to stress again the bipartisan noncontroversial nature of this legislation. It had unanimous approval of the subcommittee and the full committee. I urge its adoption.

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

Mr. MOORHEAD of Pennsylvania. Can the gentleman yield on his own time?

Mr. ERLENBORN. I wanted to know if the gentleman would yield for a question.

Mr. MOORHEAD of Pennsylvania. Of course, I yield to the gentleman.

Mr. ERLENBORN. The question has been asked by Members on this side of the aisle as to the meaning of two definitions of agencies to include the Executive Office of the President.

I want to ask the gentleman if it is not correct, as it states in the report of the committee, that the term "establishment in the Executive Office of the President" as it is contained in this bill means functional entities, such as the Office of Telecommunications Policy, the Office of Manager of the Budget, the Council of Economic Advisers and so forth; that it does not mean the public has a right to run through the private papers of the President himself?

Mr. MOORHEAD of Pennsylvania. No, definitely not. I think the report is crystal clear on that. I thank the gentleman for bringing it up.

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

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding. Does this legislation mean that foreign governments or individuals from foreign governments will have the same kind of access as any American citizen, or is it just limited to American citizens?

I am referring especially in the case where an individual has to go to a court suit.

Mr. MOORHEAD of Pennsylvania. The legislation says any person; that would exclude foreign governments.

Mr. ROUSSELOT. What about a foreign ambassador or a foreign alien, say the Russian Ambassador?

Mr. MOORHEAD of Pennsylvania. I would think if he had standing in a court as an individual, not as an ambassador, that he would have the same rights in connection with this; subject, of course, to the limitations provided in the original act.

Mr. ROUSSELOT. So the interpretation of the gentleman would be that foreign citizens residing here could, in fact, have the same kind of access to Government agencies as a U.S. citizen.

Mr. MOORHEAD of Pennsylvania. Whatever the situation, I would say to the gentleman from California it is not changed by the legislation before us. He would have to go back to the original 1966 act to determine that, but we are not changing that. We are not increasing the coverage of the bill to additional people.

Mr. ROUSSELOT. Except in this legislation we say that "the court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section."

So, in fact, foreign citizens and aliens, I was thinking particularly of alien groups that reside here, if they would decide to go to court and the court could, in fact, assess the U.S. Government for their legal fees.

Mr. MOORHEAD of Pennsylvania. Of course, it is conceivable; but first the plaintiff has to prevail, and even if he prevailed, the courts will grant it only at their discretion.

Mr. ROUSSELOT. But it is clearly possible the way the courts are today, they are very lenient with our money. I wondered if this is not a possible flaw in this legislation.

Mr. MOORHEAD of Pennsylvania. I think this section is important because there is often no monetary involvement in this field of litigation and it does discourage individuals from bringing suits.

Mr. ROUSSELOT. Except it says the court may assess against the United States for attorney fees.

So, it is another form of legal fee at the expense of the U.S. Treasury.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I might point out to the gentleman that in this kind of litigation, the plaintiff gets no monetary award from winning the case. He is serving all of the people by making Government more open if he prevails.

Mr. ROUSSELOT. Except that he may keep it in court by trying to pursuade the judge or the court itself to pay his fees.

Mr. MOORHEAD of Pennsylvania. Only, I say to the gentleman, if the court finds the Government has improperly withheld material.

Mr. ROUSSELOT. Mr. Chairman I appreciate the gentleman's comments.

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

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I was merely going to make the point that in order for such a person to prevail, the original withholding would have had to have been an improper act, or otherwise he could not prevail.

Mr. ROUSSELOT. Mr. Chairman, where does the language say that?

Mr. MOSS. The original act is to prevent the improper withholding.

Mr. ROUSSELOT. But where in this is it?

Mr. MOSS. The court here examines in camera and determines whether or not the information meets the test for privilege or whether it is going to be released.

Mr. ROUSSELOT. But the court has the real decisionmaking power to decide?

Mr. MOSS. The court has the decisionmaking power.

Mr. ROUSSELOT. It is not necessarily what the agency feels and/or the Congress; it is the court.

Mr. MOSS. It is the court, because it is a matter that is being tried in the courts in this case.

Mr. ROUSSELOT. Well, my concern is in the case of aliens and foreign people and others who have all kinds of reasons to try to attack agencies of our Federal Government. This appears to me to be a substantial loophole, if you will, in the legislation, for them to get free court costs. That is my only concern.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I would say to the gentleman that in the 7-year history of the act, we know of no case where an alien or foreign official has brought action. It could be brought under existing law, and it is not changed by this bill.

Mr. ROUSSELOT. However existing law does not provide for the court to assess the U.S. Government, does it. Does the present law provide for this?

So, this is really new law on the books, and that was my point.

Mr. MOORHEAD of Pennsylvania. Of course, it is new law.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

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

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

Mr. ERLENBORN. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I want to commend the gentleman in the well, the gentleman from Illinois (Mr. ERLENBORN) and the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD) for their leadership in bringing this bill to the floor. I am one of the sponsors of the bill, and I certainly hope that the House will enact this legislation.

Mr. Chairman, I rise in support of H.R. 12471, a bill to strengthen the people's right to be informed of their Government's activities. Our form of government—in fact the foundations of our society—rest on an informed citizenry. Nothing could be more essential than measures like the one before us now

to the safeguarding of our democratic ideals.

As the ranking minority member of the Committee on Government Operations, I am very fortunate to have participated in writing laws in this area. Eight years ago, I voted in favor of the original Freedom of Information Act. For 5 years, I served on the Foreign Operations and Government Information Subcommittee, which investigated the performance of Federal agencies under the act. Last February, I introduced, along with several of my colleagues on the committee, a bill to improve the administration of this law. And today, I will vote for a measure which fulfills that same objective.

Almost every provision of H.R. 12471 is similar, if not identical, to a provision of H.R. 4960, the bill I sponsored and testified upon before the subcommittee. I am happy to see these points in the legislation we are now considering.

This measure requires agencies to perform many functions which will directly aid citizens in obtaining Government documents. It stipulates that agencies publish indexes of their material, respond to requests that reasonably describe records and decide whether to comply with those requests within specific periods of time. The bill also imposes several obligations which will indirectly assist individuals. Under H.R. 12471, courts could review agency classification of material which was allegedly made for national security reasons and could force the Government to pay attorney fees and other litigation costs in suits where the Government does not prevail. Agencies would have to respond to court suits quickly and report to congressional committees annually on how they fulfilled their responsibilities under the Freedom of Information Act.

Mr. Chairman, all these changes in the law will advance the people's right to know what their Government is doing. I commend their enactment to all Members.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. Mr. Chairman, I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would ask that the gentleman from Illinois, during his comments, might give some specific comments concerning page 7 of the report, the paragraph entitled, "National Defense and Foreign Policy Exemption," which refers to the language on page 5 of the bill. This is the concern I have, and I would appreciate very much a discussion of that subject.

Mr. ERLENBORN. Mr. Chairman, I will be happy to do that, and I will be happy to answer any further questions the gentleman from Florida may have.

Mr. Chairman, I am happy to join with the chairman of the Foreign Operations and Government Information Subcommittee, Mr. MOORHEAD of Pennsylvania, in advocating H.R. 12471.

This bill would amend the Freedom of Information Act in several ways, all designed to ease the public's access to Government documents. It is the product of bipartisan effort by our subcommittee. We began our consideration of the Freedom of Information Act with two bills, one by Mr. MOORHEAD and one by Mr. HORTON—the ranking minority member of the Government Operations Committee—and myself. H.R. 12471 combines features of both those measures and has the unanimous support of both the Foreign Operations and Government Information Subcommittee and the full Government Operations Committee.

Mr. Chairman, the Freedom of Information Act became law on July 4, 1966, and took effect exactly 1 year later. I am proud to have played a part in securing its passage in the House, along with the gentleman from California (Mr. Moss) and our former colleague from Illinois, Don Rumsfeld. The act's guiding principle is that public access to Government information should be the rule, to be violated only in the specific areas which Congress believes are in the national interest to exempt.

In the few years that the act has been in existence, the executive branch of Government has become far more open to citizens of this country. Government officials and employees are to be congratulated for generally adopting attitudes which are in conformity with the act, but very different from the previous policy of nondisclosure.

The record of compliance with the law has not been perfect, however. In extensive investigative hearings over the past 3 years, our subcommittee has discovered many instances of failure to respond to the dictates of this act and many efforts to frustrate them by delaying release of public material.

The bill before us now is intended to remedy problems we have found.

Some individuals have experienced difficulty in learning what types of documents are in the files of various agencies. Section (1)(a) of H.R. 12471 requires agencies to publish their indexes of materials.

Some citizens have had requests for information denied on the grounds that they did not identify precisely the documents they wanted. The act was meant to require individuals to describe records reasonably, not identify them by specific number. Section (1)(b) makes this original intent clear.

Some people have had to wait excessive periods of time for responses to their requests. Section (1)(c) requires agencies to live up to the spirit, as well as the letter, of disclosure by answering requests promptly.

The Supreme Court has held that courts may not permit citizens to view matters which have been classified for reasons of national defense or foreign policy, and that courts may not examine those documents to see whether they have been properly classified. Sections (1)(d) and (2) of H.R. 12471, taken together, permit courts to examine material in chambers and determine whether it truly falls within the exemption for national defense or foreign policy classified matter. This change should persuade agencies to consider more carefully whether to classify material.

In addition, H.R. 12471 mandates that the Government respond quickly to complaints filed under this act and, at the discretion of courts, pay attorney fees and other litigation costs incurred by victorious plaintiffs. The measure also establishes that agencies shall report annually to the Congress on their performance under the act. All these provisions are designed to stimulate agencies to comply more completely and promptly with the law, and on close questions, to decide in favor of disclosure of information to the public.

Before closing, I would like to comment about an omission in H.R. 12471. H.R. 4960, which Mr. HORTON and I introduced and on which the subcommittee held hearings, included a title establishing an independent Freedom of Information Commission.

Our belief was that the existence of the Commission, authorized to review negative responses to information requests, would have been an incentive for positive agency responses. With authority to examine classified material, the Commission could have relieved judges of the burden of in camera inspection of information. Although the Commission's rulings would have been advisory rather than mandatory, its rulings would have constituted prima facie evidence of improper withholding of records. Thus, we anticipate fewer FOI cases would end up in the courts.

The decision not to establish a commission does not render H.R. 12471 defective. We can establish such a commission at a later time, if need be. I mention it only to serve notice that we are serious about making the Freedom of Information Act work.

Mr. Chairman, all the changes which the bill before us makes in procedures of the Freedom of Information Act are beneficial. They will lead, I believe, to fuller and timelier sharing of information by the Government with the people of this country. The objective is worthy, and the means of achieving it are fair. I urge approval of this bill.

Mr. ARCHER. Will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman.

Mr. ARCHER. Do I correctly understand this legislation is to require the prompt distribution to any individual in this country by sale or otherwise of Government documents that are not otherwise classified as being in the national security? Is that basically correct?

Mr. ERLENBORN. Yes. That is basically correct. The present law requires that. The Freedom of Information Act on the books requires that, with certain exemptions that are spelled out in the act.

Mr. ARCHER. There is one existing practice that troubles me already. I wonder if this bill would increase that, that is, the sale by the Federal Government of a list of names that they accumulate which are then used by the purchaser for the purpose of solicitation

or mass mailings or harassment of some nature or another. I have legislation that I have introduced which would prohibit the Federal Government from selling these lists of names to various people in this country. I wonder what this act does about it.

Mr. ERLENBORN. We considered that problem in the subcommittee and we had testimony from interested individuals as well as the agencies involved. I must confess to the gentleman that we found it difficult to resolve the problem to everyone's satisfaction and, therefore, it is not included here in this legislation.

I am sensitive to the problem, as is the gentleman from New York (Mr. HORTON) who has also introduced legislation similar to that to which the gentleman refers. As an example, I understand that the Department of the Treasury has made available the names of all those who are listed as collectors of or dealers in guns and weapons, which made it possible for those with sticky fingers and the ability to break into a person's home to find out where such weapons might be available, where they could identify people who were collectors of guns. It was not the intent of the act, and I hope we find a way of resolving that problem.

Mr. YOUNG of Florida. Will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman.

Mr. YOUNG of Florida. I thank the gentleman for yielding.

On the point I had orginally raised, the language of the report on page 7 seems to me to give the court the privilege to examine now in camera any information or documents that might be relevant to the national defense. It is a change from the existing law. That is new law, then.

Mr. ERLENBORN. Yes. That is one of the purposes of this bill; namely, to change existing law in this respect. It is the result of the decision in the Mink case mentioned by the chairman of the subcommittee, Mr. MOORHEAD. In that case the Supreme Court, said that the courts were not invested with authority to go behind the stamped document. Therefore, the decision of any person in the executive branch who puts a stamp of "secret" or "classified" or whatever it might be on a document could not be reviewed by the Court. It is clearly the intention of the committee to make these documents subject to inspection in camera and in chambers, not in public, by the judge, who can then decide as to whether the classification is proper under the Executive order authorizing such classification.

Mr. YOUNG of Florida. Will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman.

Mr. YOUNG of Florida. I have a serious concern about that very point, and I wonder if the gentleman will respond to this question. Just what is it that makes the judge an expert in the field and one who would have sufficient knowledge so that he can make a determination as to what is or is not to be made available and what should be prohibited from public distribution?

Mr. ERLENBORN. The only way I can answer the gentleman is it is the same thing that makes judges experts in the field of patent law and copyright law or all of the other laws on which they have to pass judgment. There are no specific qualifications for a judge in these areas; a judge is a judge. I have the same concern as the gentleman has. That is why I recommended, along with Mr. HORTON, the creation of the Freedom of Information Commission which could develop expertise in this area and act as a master in chancery or an adviser to the court. I expect, as I said in my prepared remarks today, that after we have some experience under this new provision others may agree that we need a Freedom of Information Commission.

Mr. YOUNG of Florida. Will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman.

Mr. YOUNG of Florida. Let me respond to the gentleman's statement by saying that in the cases you mentioned the judge does have written law and precedents on which to base a decision, but in the case of classification and in the case of making the decision of whether a matter is relevant to national defense and national security he does not have this basis on which to make such a decision.

Mr. YOUNG of Florida. Mr. Chairman, I still think that insofar as the international community is concerned, that perhaps the judge might consider something to be unimportant to a possible potential enemy whereas it might be very, very important to that potential enemy, and where the judge has no special background or expertise to be able to make a reasonable judgment in that regard.

Mr. ERLENBORN. The gentleman is accurate in saying that there is no law that establishes the criteria. We learned as a result of the Ellsberg case that there is no official secrets act in this country, even though in other countries, England, for one, there are. Therefore, what we operate under in the field of classification is the Executive order. We have an amendment in this bill to paragraph 1 of the list of exemptions so as to read as follows:

(1) authorized under criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy.

This will give direct attention of the court to the Executive order rather than the law, since we have none. The Executive order that establishes the criteria in such an instance would be used by the court to pass judgment on whether the criteria in the Executive order has been made by some flunky in the Department of Defense, and who has improperly classified such document.

Mr. YOUNG of Florida. Mr. Chairman, if the gentleman will yield further, I have one more question.

Mr. ERLENBORN. I am happy to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I want to compliment the gentleman in the well and the leadership of the committee for the work that they have done in bringing out the Freedom of Information Act amendments, freedom of information is something which I do agree with very, very strongly. I believe that our people have the right to know what the Government is doing, or is not doing. But again I must register my objection, and my strong concern about this particular matter as it relates to our national defense, and as to who might be making important decisions relative to our national security matters.

Mr. MCCLOSKEY. Mr. Chairman, if the gentleman will yield, just by way of responding to the inquiries of the gentleman from Florida (Mr. YOUNG), because I believe this matter is one that should be made clear insofar as the legislative history is concerned: The framework of the committee's consideration of this bill was against the recent decision in the Sirica case, where the Circuit Court of Appeals in the District of Columbia did provide for in camera inspection of documents upon which the President claimed executive privilege. I think it is clear from the language in that decision that the court was prepared to bend over backward to honor the executive claims of privilege; in fact, the import in that decision was that only if the need for such revelation of the information to the grand jury outweighed the national interest in protecting the information would the court order that it be disclosed to the grand jury in that case. And all of the other decisions which we have before us in this field indicate the great reluctance of the court to overrule a contention that the national security interests are paramount. And we pass this into law with the confidence that any court will examine very closely the matter of national security interest as against a citizen seeking disclosure of information, and that the court is going to be very reluctant to override an administrative decision which exists in the mind of the administration relative to declassification of such information. And what we have done in this bill, I think, reaches a compromise that the committee has in the language of this bill that, insofar as the safeguards of our national security are concerned, that should not alone be the single criteria that would compel a court not to override such an Executive order supposedly only because of national security.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman from California (Mr. MCCLOSKEY) for his contribution, and I agree with what the gentleman has said. There will certainly be a strong presumption in favor of declassification. I say this because of the testimony before our committee which indicated that the power to classify has been abused considerably by various agencies of this Government.

As I say, we had plenty of testimony that would lead us to believe that documents have been improperly classified in the first place and, second, not declassified within a reasonable period of time.

As an historical example, there is the so-called Operation Keelhaul in which documents have been kept secret for 25 or 30 years, and which still are classified, to keep information from the public about what apparently was a very black day in the history of the United States.

We really do not know why the secrecy has been kept, even though there have been attempts by historians to get at them. The documents relate to events which occurred in 1946, immediately after World War II. The fact that they are still classified, raises questions in one's mind as to whether they are properly classified and should still be kept from the public today, in 1974.

Mr. YOUNG of Florida. I do not deny that at all. There are classifications that probably have been the result of someone being overly cautious in their classification. I would make the point though that if we are going to make a mistake, it might be better to consider making that mistake in the interest of a strong national security.

The second point, in response to the gentleman from California, I recognize the attempts of impartiality of the courts, and I believe that from the standpoint of their sincerity they certainly could be trusted with this program. But I am also aware, as is he, of the vast numbers of unauthorized leaks of information, leaks in fact that are contrary to the law that have come from some of these courts that the gentleman has mentioned.

Mr. Chairman, I rise in opposition to H.R. 12471, amending the Freedom of Information Act of 1966. I am certainly not opposed to the principle of streamlining the act through certain procedural changes, but I have grave reservations over the contents of one change which strikes at the heart of our national security.

My record in support of freedom of information cannot be challenged. As a Florida State Senator, I was one of the primary supporters of Florida's landmark "Government in the Sunshine" law. Since coming to Congress, my legislative activities have included legislation to open House committee meetings to the public, and H.R. 1291, a bill to amend the Freedom of Information Act to require public disclosure of records by recipients of Federal grants. My bill requires that a willingness to provide full public disclosure be made a condition to receiving a Federal grant; that complete records must be kept on how these funds are spent; and that refusal to make these records public will result in the grant being withdrawn.

I support the bill before us today in its efforts to speed public access to agency information and to require agencies to provide this information in a timely fashion. These procedural changes would be helpful in carrying out the intent of the original act.

However, section 552(b)(1) of the United States Code clearly states that the Freedom of Information Act does not apply to matters that are specifically required by Executive order to be kept secret in the interest of national defense or foreign policy. This is the first of nine specific exemptions from the provisions of the act.

My distinguished colleagues of the Government Operations Committee, however, have included in their so-called procedural amendments a change in the language of section 552(b)(1) which could effectively negate our national security classification system. Taken in conjunction with language elsewhere in the bill, it permits the courts to examine in camera the contents of agency records to determine if a national security exemption has been properly applied.

This is a specific grant of authority to the courts to second-guess security classifications made pursuant to an Executive order and thus constitutes a clear threat to our national defense. As the Justice Department noted in their report to the Congress on this legislation:

> No system of security classification can work satisfactorily if judges are going to substitute their interpretation of what should be given a security classification for those of the government officials responsible for the program requiring classification.

My distinguished colleague from Illinois, the ranking minority member of the Government Operations Committee, Congressman ERLENBORN, himself has admitted in our colloquy earlier today:

> That there will certainly be a strong presumption in favor of declassification.

This does not bode well for top secret documents on our national defense or foreign policy should some judge decide it would be more in the interest of the Nation to make them available to the world.

Both my distinguished colleague from Illinois and my colleague from California (Mr. MCCLOSKEY) have pointed out some of the defects of the existing classification system, especially with regard to older defense materials. To which I would respond that these defects have already been recognized and an accelerated effort put underway to remedy them.

In Executive Order 11652, dated March 8, 1972, President Nixon not only recognized the problems of overclassification and the denial to historians and other interested parties of decades-old war records and foreign policy documents, he ordered the implementation of an accelerated declassification program. Since that time, the National Archives and Record Service has sifted through close to 100 million documents and reclassified most of them so that they are available to the public. According to the President's timetable, anything over a certain age is automatically declassified; other documents of a later date are subject to review. Eventually, anything over 6 years of age will be subject to automatic review and declassification unless the classifying agency can prove that the materials still fall under the national security aegis.

Therefore, because this procedure is now in effect, it is clear that the thrust of the committee amendment is against current defense and foreign policy secrets.

Mr. Chairman, I do not believe that the American people want a judge to decide what national defense and foreign policy information should be publicized. In the Sixth Congressional District of Florida which I have the privilege of representing in Congress, 86.2 percent of those responding to my March 1972 congressional questionnaire stated that they did not believe that the news media should have the right to publish or broadcast secret Government information dealing with national security.

As a former member of the House Armed Services Committee and as one who has long been concerned over the erosion of our national defense and national security standards, I cannot stand by and see this legislation breeze through the House without drawing attention to its one glaring defect. Mr. Chairman, with this exception, I support the legislation and its purposes, but will vote against it on final passage to register my concern over the weakening of our national security, and hope that our colleagues in the other body will eliminate this invidious provision so that I can enthusiastically support the bill in its final form.

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

I now yield to the gentleman from Nebraska (Mr. THONE).

Mr. THONE. I thank the gentleman for yielding.

Mr. Chairman, having assisted in the authorship of an open records bill in Nebraska and the open meetings law we have in that State, and the partially open court law, I strongly endorse the legislation.

Mr. Chairman, I rise in support of H.R. 12471, a bill of which I am proud to be a cosponsor.

For many years, I have advocated openness in Government. We must make certain the public's business is conducted in public. Before I came to Congress, I helped to draft and worked for passage of Nebraska's open meetings and open records laws. As a member of the Foreign Operations and Government Information Subcommittee, I have been impressed with the part the Freedom of Information Act has played in making Government more accessible to the people. Our hearings last year showed, however, that there is a need for improvement of this law.

The hearings demonstrated that if there is a way that a law can be interpreted to promote secrecy and to deny the public access to public records, some Government officials will find that way. For example, the present law states that agencies must respond to any request to look at "identifiable records." Some agencies have interpreted this language so that a citizen can obtain a document only if he or she knows the precise title or the file number. To prevent such pettifoggery, we propose to amend the law so that agencies will have to respond to any request which "reasonably describes such records."

Here is another example of the bureaucratic urge for secrecy. The present law states that an agency must make nonclassified Federal records "available for public inspection by copying." Some agencies have interpreted this language to mean that a citizen can find out the language in a public document only if he comes to the agency headquarters with pencil and paper and copies what is in the record.

To correct this, the proposed language

declares that with such nonclassified information, agencies shall "promptly publish and distribute—by sale or otherwise—copies."

Information is available only if it is timely. Therefore, there are several amendments to the Freedom of Information Act in the bill before you that would require the Government to act more expeditiously. If an agency is in doubt as to whether a record should be made available to the public, it must notify the person asking for the information within 10 days whether his request will be answered, and if not, the reason for the refusal. The citizen may then appeal to the head of that agency, and a reply must be forthcoming in 20 days.

We also want to correct a time element that is unfair. If a citizen sues to get access to Government records, under present law his attorney must respond to Government motions within 20 days. The Government, however, is given 60 days to reply to motions by the other side. Our bill would amend the law to put both sides on equal footing, with a 20-day limit for replying.

A recent Supreme Court decision has left a citizen with no place to turn if an agency classifies material which the citizen believes should be nonclassified. At present, courts can only determine if the mechanics of the law and Executive orders were faithfully followed in classifying a document. Our amendment would give the courts the authority to examine document in camera to determine if the information in dispute actually falls within the criteria of an Executive order.

The Federal Government has sometimes gone to great expense of litigation to deny citizen access to requested information.

On at least one or two occasions, Government officials have displayed an attitude that could be interpreted as saying to a citizen, "If you want this information, sue the Government." To make Federal officials think twice about engaging in litigation when the Government does not have a strong case, our bill would provide that the Federal Government must pay "reasonable attorney fees and other litigation costs" of citizens who win cases under the Freedom of Information Act.

One of the most beneficial amendments being proposed to this law, in my opinion, is one requiring annual reports to Congress. Each agency shall tell Congress each year how many times it has determined not to comply with requests for records, how many appeals there have been, the results of the appeals, a copy of each rule made regarding the Freedom of Information Act, and a copy of the fee schedule and the fees collected for making records available. Through these reports, we will be able to determine which agencies are responsive to the public and which are not.

I salute the gentleman from Pennsylvania (Mr. MOORHEAD), the chairman of the Foreign Operations and Government Information Subcommittee, and the gentleman from Illinois (Mr. ERLENBORN), the ranking minority member of the subcommittee. They have carefully written amendments to the Freedom of Information Act worthy of your approval. It was a pleasure to be associated with them in producing this legislation. I urge its adoption.

Mr. ERLENBORN. I now yield to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Chairman, I should like to pursue the response the gentleman made a moment ago to the inquiries from the gentleman from Florida (Mr. YOUNG). Did I understand the gentleman to say that in an in camera inspection by the court of information that the gentleman assumes hypothetically, for the purposes of this colloquy, has to do with national security, that the court in this legislation would look to the provisions of the Executive order that classifies that material under the national security exemption rather than to the material itself?

Mr. ERLENBORN. No. I am afraid the gentleman misunderstood. The amendment that we have on the bill says that the material must be classified under criteria established by the Executive order, and this is the authority for classifying the material. The court will look at the material and see whether or not it properly falls within the area established by the Executive order for classification, if it fits the criteria of the Executive order, so the court would be looking to the material itself.

Mr. PARRIS. If the gentleman would yield further, let us perhaps try to draw an analogy here where some individual wants to determine some information from the Department of Defense, and the Department of Defense comes back and says under this statute, if it is law, that this particular material has some sensitive national security aspects to it. Would it then presumably not deliver that material, and the process would go on, and there would be an inspection in camera, a judicial proceeding?

Mr. ERLENBORN. Might I interrupt the gentleman at that point? Once there has been a refusal, the matter is moot unless the party seeking the information takes the next affirmative step of instituting suit.

Mr. PARRIS. I understand, and I have gone by that step. That material that has been determined by the appropriate Government agency or Government official within the Department of Defense would then presumably be delivered or made in some way available to the court for examination, so that the court itself would review the documents, or whatever the case may be, and determine that that was in fact sensitive national security information.

Mr. ERLENBORN. The court could. The court would not be required to. We say that the court may inspect in camera. That is one device that would be made available to the court. The court is not required to.

Mr. PARRIS. Would it not be a reasonable presumption that if the court is going to make an intelligent decision about the sensitivity, it is going to have to look at the material?

Mr. ERLENBORN. Not necessarily. It may be that the description of the document itself would be sufficient. If someone were asking, for instance, for the plans for a new weapons system, or something like that, it would be quite apparent on the face of the request that this material is properly classified.

Mr. McCLOSKEY. Mr. Chairman, would the gentleman yield for a supplement to that response?

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

Mr. McCLOSKEY. I thank the gentleman for yielding.

Again, we examined this matter against the Sirica case decision. There the Court of Appeals ruled that if the President offered a statement to the court as to the reasons why the documents were being withheld, the court would hear arguments on those issues, and only if the arguments were not satisfactory to the court would the court then order that the documents be produced for in camera inspection. Using this authorization under criteria established by the Executive order, if that circuit court decision which remains law is followed, we would assume that the court would not order the production of the documents unless the arguments as to the documents themselves were not persuasive.

And the executive branch under the Executive order, having the power to classify matters as "Top Secret," "Secret," or "Confidential," we would assume the court would apply very strict rules before applying the in camera examination of the documents themselves.

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

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

Mr. WRIGHT. Mr. Chairman, I thank the gentleman from Illinois for yielding, and I congratulate the gentleman in the well for his leadership as well as that shown by the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD) for bringing a very well constructed and very well-balanced piece of legislation before the House.

It is necessary, I think, to point out that most of the changes which this bill would make in existing law are procedural in nature but they are of considerable significance in the administration.

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

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

Mr. TREEN. Mr. Chairman, regarding the national defense issue which the gentleman from Florida and the gentleman from Virginia have talked about, do I understand that the in-camera review by the judge would be solely for the purpose of determining whether the material had been classified consistent with the criteria or does the judge have the right to question the criteria. Before responding I would appreciate it if the gentleman will direct his attention to the language in the bill which says:

> Authorized under criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy.

My question is whether or not the judge can question whether those cri-

teria were established in the interest of the national defense or foreign policy.

Mr. ERLENBORN. I have no hesitation in answering the gentleman that the court would not have the right to review the criteria. The court would only review the material to see if it conformed with the criteria. The description "in the interest of the national defense or foreign policy" is descriptive of the area that the criteria have been established in but does not give the court the power to review the criteria.

Mr. TREEN. I thank the gentleman.

If the gentleman will yield further, does the chairman of the subcommittee concur in that interpretation, that the criteria themselves may not be reviewed?

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield, the court must accept the language of the Executive order as it was written.

Let me say to the gentleman what we were concerned about is a statement in the Supreme Court construing the Freedom of Information Act. Justice Potter Stewart said:

> Instead the Congress has built into the Freedom of Information Act an exemption that provides no means to question an Executive decision to stamp a document "Secret" however cynical, myopic or even corrupt the decision might have been.

But it is that kind of thinking of the Court which we wanted to alter.

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

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

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, I, too, support the amendments to the Freedom of Information Act contained in H.R. 12471. These amendments will, in my estimation, improve the administration of the act by stimulating Federal agencies to disclose more Government information to the public and to disclose it more quickly.

When we think of the Freedom of Information Act and providing access to Government information, I know that most people think in terms of affording entry to material in the city of Washington. We often forget that the Federal Government has offices in communities all around the country, and that each of these offices also maintains information which is important to many citizens. As we decentralize Government further, we will have more of these offices, and they will maintain increasing amounts of important data.

The Freedom of Information Act applies to matters which are in these local Federal offices, as well as those which are at the seat of Government. Regrettably, many officials and employees at these offices are not familiar with the provisions of the act. Requests for information made to them must often be referred to Washington, and as a result are complied with slowly, if at all. Public access to Government data is consequently frustrated not due to any malice or intent to deceive, but merely to ignorance of the law.

I sincerely hope that the various agencies covered by the Freedom of Information Act willl take the occasion of congressional consideration of amendments to this law to educate their employees in general offices about it. Perhaps enactment of these amendments, with its consequent demands on agencies for increased speed and scope of disclosure, will effectively require agencies to make their employees outside this city aware of the FOI law.

However greater responsiveness of Federal offices to the people they serve can be achieved, I shall be happy to see it occur. I view H.R. 12471 as a means of accomplishing that goal. For that reason, as well as those cited by previous speakers, I support the bill.

Mr. Chairman, one further matter that we may look at is that these agencies are located not just in Washington, but also around the country, and these agencies ought to be accessible to the public, as well as those agencies in Washington. I think this is an important dimension of the bill.

Mr. ERLENBORN. I thank the gentleman from Ohio.

Mr. WRIGHT. Mr. Chairman, our committee has worked long and hard to produce H.R. 12471 as a genuinely bipartisan measure to strengthen and to improve the operation of the Freedom of Information Act. A total of 19 days of investigative and legislative hearings were held on the act in 1972 and 1973 by our Foreign Operations and Government Information Subcommittee, under the chairmanship of the gentleman from Pennsylvania (Mr. MOORHEAD). Another 9 days of open markup sessions were held by the subcommittee during the past months to revise, improve, and refine the language of these amendments so that we could have unanimous agreement by our subcommittee and full committee members—both Republicans and Democrats.

Mr. Chairman, the freedom of information issue—dramatized so effectively by the gentleman from California (Mr. Moss) during his 16 years as chairman of this subcommittee—has never been a partisan one. The committee has been diligent in advancing and protecting the public's "right to know" during the past four administrations—two Republican and two Democratic. We have fought the Government bureaucrat's penchant for secrecy for almost 20 years in our committee and have saved the American taxpayers untold millions of dollars in the process.

The amendments to the Freedom of Information Act of 1966 that are proposed in H.R. 12471 are the first to be considered since its enactment. This is a highly technical and complex subject, and the committee has been exceedingly careful and deliberate in the amending process. Some may feel that we have not gone far enough. For example, the language of only one of the nine exemptions contained in section 552(b) of the act is changed at all. We felt that, by and large, the Federal courts were doing a creditable job in interpreting the language of most exemptions in a way consistent with the original intent of the Congress. The clear trend in case law under the Freedom of Information Act has been tilted toward the public's "right to know" and against Government bureaucratic secrecy, and that is the way it should be.

Although most of the amendments to the law proposed by H.R. 12471 are procedural in nature, they are nonetheless of significant importance in improving the day-to-day administration of the act. As examples, I call attention to the specific time limits provided in this bill for an agency's response to a request for information from the public. Also, the requirement that indexes of certain types of information "be published and distributed by sale or otherwise" by each Federal agency and the discretionary authority given the courts to award attorney fees and costs to plaintiffs who prevail against the Government in freedom of information litigation. Amendments relating to the court review provisions of the act likewise reaffirm the original intent of Congress in the definition of the term "de novo"; they also confirm our support of discretionary use by the courts of in camera review of contested records to clearly determine if they are properly withheld under the criteria of the exemptions set forth in section 552 (b) of the present law.

This is a meaningful and important bill, Mr. Chairman, and one which deserves the support of every Member of this body. By passing H.R. 12471 with an overwhelming vote we may begin to repair the grave erosion of public confidence in our governmental institutions that has resulted from recent Watergate scandals, secrecy, and coverup.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the original author of the Freedom of Information Act, the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, 8 years ago when the Congress passed the Freedom of Information Act without a single dissenting vote, I thought we had made it abundantly clear that the courts would have the power to examine classified documents in camera and determine whether they had been properly classified.

The criteria for each classification—confidential, secret, and top secret—had been set forth clearly in an Executive order by the President. Either a classified document meets the test of the criteria or it does not. It is just that simple.

It does not require an Einstein. What it does require is some intelligence, sensitivity, commonsense, and an appreciation for the right of the people to know what their Government is doing and why. I have confidence our judges have these qualities.

I do not think we have to make dummies out of them by insisting they accept without question an affidavit from some bureaucrat—anxious to protect his decisions whether they be good or bad—that a particular document was properly

classified and should remain secret. No bureaucrat is going to admit he might have made a mistake.

If that sounds partisan or too severe a criticism, I would like to quote directly from a statement of the President of the United States only 2 years ago. He said:

> Unfortunately, the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society, allowing too many papers to be classified for too long a time. The controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations. . . .
>
> The many abuses of the security system can no longer be tolerated. Fundamental to our way of life is the belief that when information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and—eventually—incapable of determining their own destines . . .

Although the present Freedom of Information Act requires de novo determination of agency actions by the Federal courts, the Supreme Court has problems to the extent which courts may engage in in camera inspection of withheld records.

A recent Supreme Court decision held that under the present language of the act, the content of documents withheld under section 552(b)(1)—pertaining to national defense or foreign policy information—is not reviewable by the courts under the de novo requirement in section 552(a)(3). The Court decided that the limit of judicial inquiry is the determination whether or not the information was, in fact, marked with a classification under specific requirements of an Executive order, and that this determination was satisfied by an affidavit from the agency controlling the information. In camera inspection of the documents by the Court to determine if the information actually falls within the criteria of the Executive order was specifically rejected by the Court in its interpretation of section 552(b)(1) of the act. However, in his concurring opinion in the Mink case, Mr. Justice Stewart invited Congress to clarify its intent in this regard.

Two amendments to the act included in this bill are aimed at increasing the authority of the courts to engage in a full review of agency action with respect to information classified by the Department of Defense, the Department of Defense, the Department of State, and other agencies under Executive order authority.

Mr. Chairman, it is the intent of the committee that the Federal courts be free to employ whatever means they find necessary to discharge their responsibilities. This was also the intent in 1966 when Congress acted, but these two amendments contained in the bill before you today make it crystal clear. I ask for your unanimous support for this legislation which is intended to close such loopholes and make the right to know more meaningful to the American people.

I would like to point out, Mr. Chairman, too, I know the concern expressed by at least two Members in the questions directed to the distinguished ranking minority member of the committee, the gentleman from Illinois (Mr. ERLENBORN), that the classifications of many of these documents are made at such low levels in the bureaucracy of Government that one would be almost shocked to even find out that they had the authority to impose a classification stamp.

We found at one time that classification authority was being exercised by over 2 million persons in the Federal bureaucracy. Many of those documents were classified with little understanding on the part of the classifiers and remain hidden from public view. Many of those documents could be the subject of action proposed to be taken in court under the provisions of the language now being amended to further clarify the Freedom of Information Act. I think the amendments are most worthwhile.

Mr. Chairman, before yielding the floor, I would like to address a question to the gentleman from Pennsylvania (Mr. MOORHEAD), regarding the report language on page 9 under the subheading, "Information to Congress."

As I understand it, I think it is of the utmost importance that in no way do we modify the rights of the Congress by any of the language contained in the amendments now pending before this committee.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, as is the usual case, the gentleman from California is 100 percent correct.

Mr. MOSS. Mr. Chairman, I thank the gentleman.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Mr. Chairman, I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I would like to join the gentleman in the well in expressing my very genuine support for this legislation, and commend not only the gentleman in the well, but the chairman of the subcommittee and the members of this Committee for bringing forth this legislation which will correct two major defects in the court's decision rendered in the Mink against EPA case.

Mr. Chairman, I rise in support of H.R. 12471, legislation to amend the Freedom of Information Act.

As Congress moves to reform our election laws, it is also essential that we move forward on another front to bring Government closer to the people. This is in the area of governmental information, the free flow of which is the wellspring of our constitutional democracy.

Fortunately, we have an excellent vehicle for this. The Freedom of Information Act, first enacted in 1966, provides a tested and workable mechanism for assuring the disclosure of information to the public while at the same time protecting the confidentiality of the Government process where necessary.

Acting on the experience gained under the basic statute, we can refine and improve the act as needed. H.R. 12471 is an effort to do this. It is a carefully considered and drafted bill which was reported out unanimously by the members of the Committee on Government Operations. It makes spare and judicious changes in the act, the need for which has been fully demonstrated by events in the information area.

I would like to discuss one such change in particular, as I was a participant in the events which showed the act must be clarified. On January 22, 1973, the U.S. Supreme Court rendered its decision in the case of Environmental Protection Agency against Mink, et al. This was the first interpretation of the Freedom of Information Act by the Supreme Court. I had initiated the suit a year earlier with 32 other Members of Congress as coplaintiffs. We sought as Members of Congress and as private individuals to compel the executive branch to release papers on the nuclear test "Cannikin." At the time, Congress was making a decision on whether to authorize and appropriate funds for the test.

In our suit, we asked that the judicial branch rule on the Executive's compliance with provisions of the act. We secured an appeals court directive to the Federal district judge to review the documents in camera to determine which, if any, should be released. This seemed entirely proper to us as an initial step under the act, since the act does provide for court determination under section (a)(3) on a de novo basis of the validity of Executive withholdings.

Unfortunately, in the Mink case the Supreme Court reached a decision that most of us regard as somewhat tortuous in this regard. When the executive branch took the appeals court decision to the Higher Court on certiorari,the Supreme Court held that in camera reviews of material classified by the President as national defense and foreign policy matters are not authorized or permitted by the act.

The basis of this decision was the act's list of exemptions from compelled disclosure. Exemption No. 1, under section (b)(1) of the act, exempts matters authorized by specific Executive order to be kept secret in the interest of the national defense or foreign policy. Somehow, the Supreme Court decided that once the Executive had shown that documents were so classified, the judiciary could not intrude. Thus, the mere rubberstamping of a document as "Secret" or "Confidential" could forever immunize it from disclosure. All the courts could do was to determine whether it was so stamped. An affidavit was used in the Mink case to prove this. No judge ever saw the documents at all, not even their cover page.

The abuses inherent in such a system of unrestrained secrecy are obvious. As the system has operated, there is no specific Executive order for each classified document. Instead, the President issued one single Executive order establishing the entire classification system, and all of the millions of documents

stamped "Secret" under this over succeeding years are now forever immune from even the most superficial judicial scrutiny. A lower-level bureaucrat could stamp the Manhattan telephone directory "Top Secret" and no court could order this changed. Under the Supreme Court edict, the Executive need only dispatch an affidavit signed by some lowly official certifying that the directory was classified pursuant to the Executive order, and no action could be taken.

Obviously, something must be done to correct this ridiculous Court interpretation. It need not be a drastic step. Actually, it was the original intention of Congress in adopting the Freedom of Information Act to increase the disclosure of information. Congress authorized de novo probes by the judiciary as a check on arbitrary withholding actions by the Executive. Typically, the de novo process involves in camera inspections. These have been done by lower courts in the case of materials withheld under other exemptions in the act. They can be barred under exemption No. 1, only through a misguided reading of the act and by ignoring the wrongful consequences.

H.R. 12471 contains two minor changes in the act to correct this aspect of the Mink decision and make crystal clear that courts have authority to make in camera inspections of original documents, no matter under what exemption they were withheld, to assure compliance with the Freedom of Information Act.

The first change inserts the words "and may examine the contents of any agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth" in the act. This change will remove all doubt that courts have discretionary authority to utilize in camera inspections when they believe it is desirable. It does not compel such actions but leaves it to the discretion of the court.

The other change brought about by the Mink decision revises the wording of exemption No. 1. Instead of referring merely to matters specifically required by Executive order to be kept secret, it will exempt matters "authorized under criteria established by an Executive order to be kept secret." This will give courts leeway to probe into the justification of the classification itself. The change will empower courts to determine whether the matters meet the criteria established by the Executive order under which they were withheld. In effect, courts will be able to rule on whether disclosure actually would bring about damage to the national security or on whatever other test is set forth in the Executive order as justification for the classification. Our intention in making this change is to place a judicial check on arbitrary actions by the Executive to withhold information that might be embarrassing, politically sensitive, or otherwise concealed for improper reasons rather than truly vital to national defense or foreign policy. We are not saying any material must be released, only that it must be submitted to an impartial judge to determine whether its withholding meets the provisions and purposes of the act.

I believe these changes are essential if we are to restore the proper functioning of our democratic process. I ask for approval of H.R. 12471.

Finally in closing, I would like to acknowledge the Members of Congress in 1971, who joined me in my suit against the Government, which led to the Mink against EPA decision. The Members of Congress who were coplaintiffs are:

LIST OF COPLAINTIFFS

(Senator) James Abourezk, Bella S. Abzug, Herman Badillo, (the late) Nick Begich, Phillip Burton, William Clay, (former Rep.) John G. Dow, Robert F. Drinan, Bob Eckhardt, Don Edwards, William D. Ford, Donald M. Fraser, Michael Harrington, Augustus F. Hawkins, Ken Hechler, James J. Howard.

Robert W. Kastenmeier, Edward I. Koch, Robert L. Leggett, Spark M. Matsunaga, Romano L. Mazzoli, (former Rep.) Abner J. Mikva, Parren J. Mitchell, John E. Moss, Thomas M. Rees, Teno Roncalio, Benjamin S. Rosenthal, Edward R. Roybal, (the late) William F. Ryan, (former Rep.) James H. Scheuer, John F. Seiberling, Frank Thompson, Jr.

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

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. Moss).

Mrs. MINK. Mr. Chairman, this has been a very long struggle for many of us, including the gentleman in the well, in the case we brought against the Government for the disclosure of information which we felt was so essential in our deliberations. The actions of this committee today in bringing this bill to the House will serve to enlarge not only our ability but the ability of the American people to acquire important information so that we can fully participate in this democracy.

Mr. Chairman, I thank the gentleman again, together with the chairman and members of the committee.

Mr. MOSS. Mr. Chairman, I thank the gentlewoman, and I would like to take this opportunity to express to the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Illinois (Mr. ERLENBORN) my unqualified admiration for the work they did in drafting these amendments.

Mr. Chairman, I am pleased to support them in offering the amendments to the House today.

Mr. ERLENBORN. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I support the laudable objectives of the Freedom of Information Act, and the worthy attempt that the committee is making to strengthen the act and clarify certain ambiguities that still plague the act. But the House should make clear that the Corporation for Public Broadcasting is not intended to be covered within the expanded definition of "agency" which is part of this amendment. The corporation clearly is not a Government corporation or a Government-controlled corporation and should not become subject to the act under those terms as used within the expanded definition of "agency" in the amendment.

The Public Broadcasting Act of 1967 expressly provided that the corporation is not to be "an agency or establishment of the U.S. Government." Rather it is a private, independent corporation incorporated pursuant to the District of Columbia Nonprofit Corporation Act. Although Congress was desirous of supporting public broadcasting with Federal funds in 1967, it was keenly aware that it would be inappropriate—constitutionally and otherwise—for the Government itself to perform the support activities that it envisioned for the corporation. Congress established a private corporation so that the Government itself would not be involved in deciding how the Federal funds appropriated for the support of public broadcasting would be used.

Of course, the corporation is not opposed to making available to the public information concerning its activities. Indeed, it is important that the public understand what the corporation does for it to succeed in its mission. But it would be a mistake to treat the corporation as a Government agency or Government-controlled corporation when its very reason for being is insulation from the Government. If the corporation is made subject to the act, the corporation will inevitably be clothed with the trappings of Government.

So, Mr. Chairman, I rise to inquire of both the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD), and the ranking member, the gentleman from Illinois (Mr. ERLENBORN) if, under the language on page 8, the definition of "agency," in reference to the Corporation for Public Broadcasting, is not inconsistent with the language of the legislation and if, in fact, there is any effort to get control of the corporation or its decisionmaking function through this act? I would certainly hope not.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, as I stated earlier in the debate, the language of the statute, where is says, "Government-controlled corporation," would be controlling over the language of the report. If the Corporation for Public Broadcasting is not a Government-controlled corporation, then the provisions of the act would not reach it.

I will say to the gentleman that if the act does apply to the corporation, there is no intention to do anything but give individual members of the public the right to get information. I am sure that this corporation would give that to the individual citizens, either with the law or without the law.

There is no intent to institute Gov-

ernment control or congressional control over the corporation itself.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for his response.

The gentleman from Illinois (Mr. ERLENBORN), will concur, I trust.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, I will state that the gentleman is correct.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, the people's right to know is fundamental in our democracy. H.R. 12471 advances that right by making improvements in administrative procedures under the Freedom of Information Act. As a member of the subcommittee which considered this bill, I wish to add my support of it.

I would like to address myself to two provisions of H.R. 12471 in particular: Section (1)(d), which permits—but does not require—courts to examine the contents of agency records in camera to determine whether the records or any portion of them may be withheld from the public under any of the exemptions to the act, and section (2), which makes clear that only documents which may be kept secret in the interest of the national defense or foreign policy are those which have been properly classified.

Just before we began our hearings on two bills to amend the Freedom of Information Act, both of which I cosponsored, the Supreme Court ruled in *Environmental Protection Agency* v. *Mink*, 410 U.S. 73 (1973), that courts could not review the contents of classified documents. It decided that a determination of whether material was properly classified was satisfied by an affidavit from the agency controlling the information.

On the basis of personal experience, Mr. Chairman, I do not believe that this decision is reasonable. Let me cite one example. Weather modification in Vietnam during American participation in the war there is a subject in which I have had considerable interest. Both Senator CRANSTON and I have asked the Defense Department for information about this subject repeatedly since 1971; we have been denied it each time. Senator PELL, who is the chairman of the Senate Subcommittee on Oceans and International Environment, has also asked for this information, and he, too, has been denied it.

Weather modification is one of the most sensitive and fascinating scientific topics being discussed today. Scores of meteorologists and environmentalists are very concerned about developments in this area. Surely Congress ought to know what the Defense Department is doing with regard to it before legislating on measures in this field, such as my House Resolution 329, expressing the sense of the House that the United States should seek prohibition of weather modification as a weapon of war.

I think that the Department erred in not releasing information on weather modification, but under the present law, I could not seek court review of the Department's position.

If H.R. 12471 were to be enacted, however, I could seek that court review. I could get a hearing by an independent arbiter on whether the executive branch had acted rightly in withholding information. I am pleased to vote for a bill which makes this improvement in the administration of the Freedom of Information Act.

(Mr. ALEXANDER, at the request of Mr. MOORHEAD of Pennsylvania, to revise and extend his remarks at this point in the RECORD.)

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 12471, which is designed to strengthen the Freedom of Information Act. This legislation is another step in making certain that government is the servant of the people and not its master.

One provision is especially important in this regard. The bill provides for the recovery of attorney fees and costs at the discretion of the courts.

Why is this so important? For one thing, there has been altogether too much unnecessary litigation forced upon our citizens by Federal agencies that feel they own or have a proprietary interest in Government information—information that belongs to all of our people.

Citizens are sometimes compelled to spend thousands of dollars—money they can ill afford—simply to assert rights which Congress is attempting to implement under both the spirit and letter of the Constitution.

The Government has lost more than half of its freedom of information cases. That is not much of a track record. In fact, it is lousy. And guess who is stuck with the tab? The unfortunate citizen complainant and the taxpayers.

The committee feels that once the Government has to take full responsibility for litigating indefensible cases, it will think twice before going to the mark in the first instance.

Let me emphasize that the recovery of reasonable attorney fees and other litigation costs is at the discretion of the court. It may take into consideration those factors it considers consistent with the administration of justice.

These may include when the suit advances a strong congressional policy, the ability of the plaintiff to sustain such expenses without harmful sacrifice, the obstinance of the Government in pressing a weak case, the question of possible malice and any other factors considered important to the court.

The committee feels strongly that no plaintiff should be forced to suffer any possible irreparable damage because the Government failed to live up to the letter and spirit of the Freedom of Information Act.

Only when this Nation's most threadbare citizen can stand before the full array of Government power and emerge victorious in every sense when his cause is just will the full promise of our system of government be realized. That promise must be guarded and brought to reality and that is our intention.

I ask this House to strike another blow for liberty and approve this legislation with resounding affirmation for its constitutional goals.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. FASCELL), a member of the committee.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as one of the original charter members of the Moss subcommittee, appointed by the late Chairman Dawson in 1955 to investigate Government secrecy and withholding practices, I am particularly pleased to support the pending bill, H.R. 12471.

This measure would measurably improve and strengthen the original Freedom of Information Act, now in operation for almost 7 years. Our committee has spent many weeks of concentrated effort in investigative and legislative hearings and in public markup sessions to draft and perfect the legislation before us today. The need for these amendments has been fully documented in our 1972 investigative report—House Report 92–1418—and in our legislative report on this measure—House Report 93–876. I commend these two documents to all Members. They make a clear-cut case for these important amendments to curb Federal agency delays and other abuses in the administration of the act, to clarify and reaffirm original congressional intent, and to make the Freedom of Information Act a much more usable tool for the working press.

Mr. Chairman, the advantages of open public access to the workings of government have been clearly demonstrated in both the Federal Freedom of Information Act and in my own State of Florida through the "sunshine law." One of the ways in which we can help reestablish public confidence in our governmental operations is by the quick enactment of these amendments to the Freedom of Information Act.

For the most part, the Federal courts have taken adequate notice of the importance of the act as a milestone enactment by Congress in preserving the fundamental right of all Americans to be informed about the business of their Government. The pending legislation, therefore, does not change the language of eight of the nine exemptions contained in section 552(b) of the act. One of the most eloquent statements by a Federal court in support of the principles of the act was made in the 1971 freedom of information case of Soucie against David:

> Congress passed the Freedom of Information Act in response to a persistent problem of legislators and citizens, the problem of obtaining adequate information to evaluate Federal programs and formulate wise policies. Congress recognized that the public cannot make intelligent decisions without such information, and that governmental institutions become unresponsive to public needs if knowledge of their activities is denied to the people and their representatives. The touchstone of any proceedings under the Act must be the clear legislative intent to assure public access to all governmental records whose disclosure would not significantly

harm specific governmental interests. The policy of the act requires that the disclosure requirements be construed broadly, the exemptions narrowly.

Mr. Chairman, one historical reference is particularly important in understanding the need for these amendments. When hearings were held 9 years ago by the Moss subcommittee on legislation that finally was enacted as the Freedom of Information Act of 1966, every single witness from the Federal bureaucracy—then under a Democratic President—opposed the bill. They claimed that it would seriously hamper the functioning of Federal agencies and be ruinous to the decisionmaking process. Despite their opposition, the bill was unanimously passed by the Congress and President Johnson wisely signed it into law. Of course, no such calamitous result was forthcoming. The specters never appeared. During the hearings on this current legislation to strengthen the freedom of information law, every single witness from the Federal bureaucracy—this time under a Republican President—has again opposed the bill, using the same types of discredited arguments heard 9 years ago. I trust that history will repeat itself and that Congress will again give its overwhelming approval to freedom of information legislation and that the present White House incumbent will likewise sign the bill into law.

Mr. Chairman, I urge our House colleagues to support the important bipartisan amendments to the Freedom of Information Act as contained in H.R. 12471.

Mr. Chairman, I would just simply like to add two points: One is that the original act, after long years of study and thousands of pages of testimony, has been in operation now for 7 years, and all of the cries that were raised at the time the original act was passed can be summed up probably in this fashion: That it was said that if we passed the Freedom of Information Act, it would bring the executive branch of Government to a grinding halt.

None of that, of course, has happened. The Freedom of Information Act has found its place in the legislative history and in the administration of our Government. It has been an extremely useful tool for our citizens, and it has helped build confidence in Government. Goodness knows, we need more of that.

So these amendments now are another long step toward clarifying the right of public access to Government information.

Mr. Chairman, I would just want to add this one thought: That none of the fears that have been expressed really materialized. I do not believe that any would materialize in the future as a result of these amendments or any other act that deals with this subject. I think it is too well ingrained now in our legislative history and in the operational history of this Government.

One point we should keep in mind is that members of the public and the rights of individual Congressmen are also covered under this act as members of the public, and I would like to ask the chairman of the committee, once again, in view of the long history on this point, that whatever rights accrue to Members of Congress under this act as Members of the body politic, this in no way is in derogation of other rights which may exist by reason of our responsibilities as Members of Congress and in no way diminishes or modifies those rights.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman is entirely correct.

Mr. LEHMAN. Mr. Chairman, I rise in support of the Freedom of Information Act amendments, and urge the defeat of any weakening amendments.

Mr. Chairman, the people in the 13th District in Florida wonder why it takes over a month to receive even an interim reply from a Federal agency on a request for information. As a matter of fact, my staff often has the same problem.

The information stored in Government files is valuable stuff. And the people whose taxes paid for it should in most circumstances be able to get hold of information quickly. I am pleased to see that the committee has set time limits of 10 working days for agency action on original requests.

The Freedom of Information Act amendments before us today are more of what we in Florida call "government in the sunshine." Government in the sunshine is letting the people see what it is that the Government is doing, and gives the people better access to the Government. Conversely, it also makes the Government more responsive to the people.

Mr. Chairman, I urge the support of my colleagues for this bill.

Mr. HANRAHAN. Mr. Chairman, I was particularly proud of the recent action of the House of Representatives in passing H.R. 12471. This bill represents the first comprehensive attempt to expand and improve upon the Freedom of Information Act which became public law in 1966.

Never before in the history of America has the need for better access to governmental information by the people been so great. One of the major reasons so many Americans have lost faith in our form of government, has been the persistent belief that ours is a government of the few which makes its decisions in secret. The whole purpose of the Freedom of Information Act was to open up governmental information to the scrutiny of the American people. By passing H.R. 12471, the House has acted decisively to make this important public law more effective and available for use by all Americans.

The following major improvements to the Freedom of Information Act are included in H.R. 12471:

First. A current index of agency policies and documents shall be promptly published and distributed to interested individuals by sale or otherwise;

Second. Requests for information must merely "reasonably describe" as opposed to "specifically identify" records in question;

Third. Nothing in this bill shall be construed to limit in any way congressional access to information;

Fourth. Time limits for each phase of agency response to informational requests are set up. Original requests must be acted upon within 10 days. Administrative appeals must be decided within 20 working days. Court proceedings may be initiated if these deadlines are not met;

Fifth. The court may reimburse an informational requester in cases where the agency denial is not upheld;

Sixth. The court may examine in secret any information denied to see if it falls into any category of excluded information;

Seventh. Information denied for security reasons must be specifically identified as such by the executive branch;

Eighth. Each agency must submit an annual report of its efforts to meet the requirements of this act including the number of denials, reasons for each, and the amount and rate of fees; and

Ninth. All executive agencies and Government corporations, including the Executive Office of the President, are required to abide by this act.

As a Member of Congress who has taken a deep and abiding interest in the free flow of Government information, I feel the House has acted in the public interest by passing H.R. 12471. I sincerely hope this wise and farsighted measure will be speedily enacted into law.

Mr. PATTEN. Mr. Chairman, many years ago, Lord Acton wrote that—

Everything secret degenerates, even the administration of justice; nothing is safe that does not show it can bear discussion and publicity.

I have always believed that, for I am convinced that the public has the right to know what the Government is doing right—or wrong. That is why I was a cosponsor of the Freedom of Information Act of 1966. It always disturbed me to read or hear that some Federal departments or agencies conceal public information, instead of revealing it.

Although the 1966 act has made more information available to the public, many improvements have to be made before Congress can really say it is furnishing the people with the information they deserve. Therefore, once again, I have become a cosponsor of freedom of information legislation, because it contains provisions that help strengthen the present law. The new legislation not only strengthens procedural aspects, but also improves its administration, and expedites the handling of requests for information from Federal agencies, including reports to Congress that will show applications for information denied.

Mr. Chairman, I have, like Jefferson, "confidence in the people, cherish and consider them as the most honest and safe." After years in public life, my confidence in the people has grown, while my faith in some who govern has declined. Yet, I have hope and believe that one of the best ways of improving the low esteem in which Congress is held by the public—only about 21 percent think we are doing a good job—is to pass a Freedom of Information Act

that will provide people with the information they need about government. If government is right, it should be praised, and if it is wrong, it should be criticized.

I urge my colleagues to vote for this bill, for it will not only strengthen the public's right to know, but also help restore some of the public confidence that Federal agencies and Congress have lost.

Mr. THOMPSON of New Jersey. Mr. Chairman, I rise in support of H.R. 12471 in order that the Freedom of Information Act might be strengthened and made a more workable tool by the news media and other Americans.

As a cosponsor of the original 1973 bill on which the Foreign Operations and Government Information Subcommittee held hearings, I have closely followed the markup sessions that produced this bipartisan measure before us today. I think it significant, Mr. Chairman, that there is a broad representation of the political spectrum of both sides of the aisle in support of this bill.

History has repeatedly shown that an obsession for secrecy in governmental institutions has been the handmaiden of repression, corruption, and dictatorial rule. Government secrecy for the purposes of hiding wrongdoing, inept leadership, or bureaucratic errors undermines and can eventually destroy our system of representative government. The confidence of the American public in governmental institutions must be restored if we, as a nation, are to emerge from the Watergate doldrums. This bill to make the Freedom of Information Act a more viable weapon in the fight against secrecy excesses of the entrenched Government bureaucracy is an important start in that direction.

Mr. Chairman, in that connection we should all heed the recent observations of former Chief Justice Earl Warren when he said:

> It would be difficult to name a more efficient ally of corruption than secrecy. Corruption is never flaunted to the world. In Government, it is invariably practiced through secrecy. . . . If anything is to be learned from our present difficulties, compendiously known as Watergate, it is that we must open our public affairs to public scrutiny on every level of Government. . . .

I urge that we begin today by an overwhelming vote in support of H.R. 12471, to let the American public know that we in Congress believe that freedom of information is the best antidote for the Watergate secrecy and coverup poison.

Mr. OBEY. Mr. Chairman, I should like to commend the gentleman from Pennsylvania (Mr. MOORHEAD) and the Foreign Operations and Government Information Subcommittee which he chairs for doing a superb job of legislative oversight on the Freedom of Information Act. That painstaking and hard-hitting job of oversight in the 92d Congress led to the introduction last year of amendments to clarify and strengthen the act, which I was pleased to cosponsor. Subsequent legislative hearings helped shape the amendments that are before us now.

I think a strong case for these amendments has already been made. All I hope to do now is contribute one example of why congressional vigilance is necessary to assure that the Freedom of Information Act functions in the way Congress intended.

Last December 27 the Soil Conservation Service of the Department of Agriculture published regulations prescribing the policies, procedures, and authorizations governing the public availability of its materials and records under what it erroneously referred to as the "Public Information Act."

The SCS said it would make its records available with "reasonable promptness" for inspection or copying, except for certain kinds of records which it then listed. The SCS may have intended that its list reflect the act's list of certain categories of information that are exempt from mandatory disclosure, but the agency stumbled before it even got started.

Its very first category was:

> Materials specifically required by Executive orders to be kept secret.

A much, much broader category than that specified by the act itself, which now reads:

> Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy.

To compound its error, the SCS did not invite public comment on its regulations, declaring blandly that—

> No substantive basic policy or procedural changes have been made.

Of course, that allegation was nonsense.

I cite this example to show that Federal agencies still cannot yet be trusted to live up to the Freedom of Information Act on their own. We must monitor them constantly and continue to demand that they strive to comply with the law to the fullest. If we do not, the public will not have the access to government information that it is entitled to have under the law.

Mr. Chairman, I urge that these amendments to the Freedom of Information Act be passed as reported out by the Government Operations Committee.

Mr. BROOMFIELD. Mr. Chairman, I rise today in support of H.R. 12471, to amend the Freedom of Information Act. When this historic act was passed in 1966, the intent was to guarantee the right of the American people to know what their Government was doing by enabling them to obtain information and records from Federal agencies.

It has been increasingly evident since then that the 1966 act lacks the strength necessary to make it effective in this area. Certain ambiguities and weaknesses have prevented it from achieving the results intended by its passage. We have the opportunity today to correct this situation and inject new life into the original act by passing H.R. 12471.

The basis of a sound democracy is an informed public. We pride ourselves on being a government that depends on the voices of all the people, not just a few. But for these voices to play an active part they must have access to knowledge. Otherwise, they are merely the voices of ignorance.

The access to Government information is a basic right of all the American people. As one of our greatest Presidents said, this is a government "of the people, by the people, and for the people." I urge all my colleagues to echo Abraham Lincoln's words today by voting favorably on H.R. 12471.

Mr. DRINAN. Mr. Chairman, the people's right to know how the Government is discharging its duties is essential to a democratic society. This is the basis of the Freedom of Information Act, and for the amendments to that act before us today.

One of the most important features of the legislation before us today is that it would create the machinery for continuous congressional oversight of the information practices of the Federal Government.

The underlying principle of the Freedom of Information Act is that of Congress performing its most essential role, acting as a check in balance on the growth of executive power. Indeed, Senator STUART SYMINGTON, quoted in "The Pentagon Papers and the Public," Freedom of Information Center Report No. 0013—U. Mo. July 1971—gave an excellent example of the dangers of secrecy in Government when he stated that he "slowly, reluctantly, and from the unique vantage point of having been a Pentagon official and the only Member of Congress to sit on both the Foreign Relations and Armed Services Committees concluded that executive branch secrecy has now developed to a point where secret military actions often first create and then dominate foreign policy responses."

The bill before us today strengthens the Freedom of Information Act of 1966. It provides for a wider availability of agency indexes listing informational items. It permits access to records on the basis of a reasonable description of a particular document rather than requiring specific titles or file numbers as is presently the case in many agencies. The bill sets short time limits for agency responses to inquiries. It provides for recovery of attorneys' fees and court costs by plaintiffs.

The bill also permits in camera court review of classified documents for purposes of determining whether the documents were properly classified under executive authority. This key provision in effect reverses *Environmental Protection Agency et al.* v. *Patsy T. Mink et al.*, 410 U.S. 73 (1973), a suit in which I was one of 33 congressional party plaintiffs, by specifically allowing in camera inspection by the courts of all documents in dispute, including those which may relate to national defense and those which may fall into the category of inter and intraoffice memoranda. This provision reestablishes the original intent of this bill.

The purpose of this legislation is to facilitate access to information by the public. At a time when the deleterious effects of Government secrecy have never been in greater evidence, this legislation is most welcome.

Mr. REUSS. Mr. Chairman, I strongly support H.R. 12471. The Freedom of Information Act should be strengthened and improved after 7 years of operation.

The Government Operations Committee adopted a comprehensive report on the administration of the Freedom of In-

formation Act in September 1972. It was the unanimous view of the membership of our committee, based on many weeks of hearings and investigations by the Foreign Operations and Government Information Subcommittee, that certain amendments were required to make the law truly effective.

Hearings held on legislation to implement this committee recommendation were held last year and produced supporting testimony and statements from a number of widely diverse organizations, including:

From the news media:

Creed Black, editor of the Philadelphia Inquirer;

Herbert Brucker, former editor of the Hartford Courant and former president of the American Society of Newspaper Editors;

J. R. Wiggins, former editor of the Washington Post, past president of the ASNE, now publisher of the Ellsworth, Maine, American;

Richard Smyser, editor of the Oak Ridger, Oak Ridge, Tenn., and vice president of the Associated Press Managing Editors;

Clark Mollenhoff, former Nixon White House counsel and now bureau chief of the Des Moines Register-Tribune;

Ted Koop, Washington office director of the Radio-Television News Directors Association;

E. W. Lampson, president of the Ohio Newspaper Association;

Ted Serrill, executive vice president, National Newspaper Association;

Courtney R. Sheldon, chairman, Freedom of Information Committee, Sigma Delta Chi;

Stanford Smith, president, American Newspaper Publishers Association;

William H. Hornby, executive editor, the Denver Post and chairman, FOI Committee, American Society of Newspaper Editors; and

The Association of American Publishers, Inc.

From the legal profession:

John T. Miller, chairman, section of administrative law, American Bar Association;

Richard Noland, vice chairman, Committee on Access to Government Information, American Bar Association;

Stuart H. Johnson, Jr., chairman for Freedom of Information, Federal Bar Association;

John Shattuck, staff counsel, American Civil Liberties Union;

Ronald Plesser, attorney, Center for the Study of Responsive Law; and

Thomas M. Franck, law professor and director, Center for International Studies, New York University.

The measure is also supported by the American Library Association, Common Cause, and has been cosponsored in its various forms by more than 75 Members of the House and Senate.

H.R. 12471 contains needed and well-conceived amendments to the original 1966 Freedom of Information Act. While they may not solve all of the problems in its day-to-day administration resulting from foot-dragging tactics of the Federal bureaucracy, it will serve notice that Congress and the public strongly reaffirms its support for the principles of the people's "right to know." As the late President Lyndon Johnson said when he signed the original measure into law:

> This legislation springs from one of our most essential principles: a democracy works best when the people have all the information that the security of the Nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest. . . . I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded.

Mr. HARRINGTON. Mr. Chairman, in 1966 the Congress saw fit to enact Public Law 89-487—popularly recognized as the "Freedom of Information Act." This landmark legislation was structured to guarantee the right of citizens to know the business of their Government. But for all of its desirable ambitions, the Freedom of Information Act has, at times, proved incapable of assuring public access to the records of Federal agencies and departments.

Accordingly, the Committee on Government Operations of the House of Representatives has reported out legislation (H.R. 12471) to further protect the right of the public to check on the activities of the Federal Government, by improving the Freedom of Information Act.

During the summer of 1971, the Government Operations Subcommittee on Foreign Operations and Government Information undertook a comprehensive study of administration of the Freedom of Information Act by the Federal agencies. This investigation revealed widespread abuses of the act by the Federal agencies involved. By resorting to delaying tactics, various classification ploys and requiring of requestors a specificity of identification of desired information, Federal agencies were able, all too often, to successfully circumvent a multitude of the public's requests. The subcommittee, in its subsequent report, suggested a series of administrative changes to correct existing deficiencies in making information available by the Federal Government. Also set forth were a list of specific legislative objectives designed to improve the administration of the Freedom of Information Act. H.R. 12471, now before this House, is legislation that should correct those deficiencies noted by the subcommittee.

This measure, similar to H.R. 5425 which I sponsored in the previous session of the 93d Congress, seeks to accomplish more efficient, prompt, and full disclosure of information. H.R. 12471 would affect the following areas of the Freedom of Information Act:

H.R. 12471 would improve the availability of Federal agency indexes, which list the specific information available from individual agencies. The bill would require that indexes be readily available, in usable and concise form, upon request, even though agencies would not, by reasons of practicality, be required to print indexes in bound form.

Many agencies at present require an individual to designate a specific title or file number to identify desired documents. H.R. 12471 would allow for the retrieval of information with only a reasonable "description" of the requested information, thus restricting one manner in which citizens' access to information has been limited in the past.

Frequently, information from the Federal Government can be used only if it is timely. Too often, however, the intent of the Freedom of Information Act has been circumvented by dilatory tactics on the part of agencies. To deal with this problem, H.R. 12471 would set a 10-day time limit on agency responses to original requests for information, and 20 days for administrative appeals of denials. In unusual cases, good faith assurances of the agency will allow for an extension of the time period allowed. So as to expedite litigation carried out under the Freedom of Information Act, the bill would also cut to 20 days the present 60-day requirement for agency response to complaints. The bill would also allow defendents to recover attorney's fees from the Government, as well as court costs, if the case goes against the Government.

An important expansion of the coverage of the act is also included in H.R. 12471, as the definition of what constitutes an "agency" is expanded. Government corporations, such as the Tennessee Valley Authority, and Government-controlled corporations, such as the Corporation for Public Broadcasting or Amtrak, would come under the authority of the Freedom of Information Act for the first time. Also, agencies within the executive branch, such as the Office of Management and Budget or the National Security Council, would be covered.

H.R. 12471 also contains a provision extremely significant in the light of recent controversies over the classification of Government documents. The bill would permit, at the option of the court, in camera court review of document classification. Courts would be enabled to review the actual classified documents, rather than the classification notices, as is often the case under existing law. Courts would be empowered to determine whether the classifications imposed upon documents by agencies were properly constituted. These new procedures, I hope, will reduce the appalling incidence of smokescreen "national security" defenses raised by the Government in Freedom of Information Act cases.

Mr. Chairman, this important legislation enhances and improves the original Freedom of Information Act. In a nation which claims with just pride that it is ruled "by the people," the accessibility of Government records to the populace is of great importance. The amendments proposed to the original act by H.R. 12471 would limit the abuses of the act by Federal agencies that have had a chilling effect on the ability of citizen's to fulfill their right to know. Today the House has the opportunity to pass historic legislation, building upon the foundation of the original 1966 Freedom of Information Act. We should not shirk from the task before us today; we should pass this bill.

Mr. PRICE of Illinois. Mr. Chairman, these amendments should be passed in order to strengthen the protection a cit-

izen is afforded under the Freedom of Information Act. Although the philosophy of the original act was clear, agency treatment of some of its provisions prevented maximum protection of citizen interest.

For example, in a situation where the information is needed quickly, an agency can effectively deny the request by delaying its response. To preclude this kind of event, the bill provides a time limit of 10 days for original requests.

Another problem is the meaning of an "identifiable record" under the act. If an agency determines that a record is identifiable only by specific title or file number, a citizen who has only a description of the record might be unable to obtain it even though it is apparent what he is requesting. The bill provides that an agency may not require specific title or file number as the sole means of identification.

Certain records, such as those relating to national defense or foreign policy, are exempt from the act and may be withheld by an agency. To prevent the dangers of arbitrary determinations under these exemptions, the bill permits a reviewing court to examine the records in private and decide if the agency determination was reasonable.

Mr. Chairman, we are not dealing here with an ordinary piece of legislation. The principles of the Freedom of Information Act emanate from the basic constitutional precepts of due process and the right of a person to confront his accuser. The act seeks to insure that no one will be adversely affected by an agency determination without being able to find out the reasons for it and to challenge it in court. I urge that we adopt these amendments to make the act more effective in protecting these rights.

Mr. CULVER. Mr. Chairman, I rise in support of this legislation, which would make much needed strengthening amendments to the Freedom of Information Act. It is significant, I believe, that this measure is a bipartisan one and was reported by the Government Operations Committee, on which I serve, by a unanimous vote last month.

Access by the people to information held by their Federal Government has never been a partisan issue because we all realize that in today's complex society information is power and a monopoly over information cannot serve the public interest.

Securing prompt, accurate, and reliable information is even more vital in today's regrettable but wholly understandable climate of popular distrust of the institutions of government. To reverse Justice Holmes' famous dictum, the time has come for government to turn square corners in dealing with the people.

This bill would add to the 1966 act important procedural tools to make the freedom of information law more workable and equitable. It would—

Force Federal agencies to move much faster to grant press and public access to Government records;

Grant courts the authority to assess attorney's fees and litigation costs against Federal agencies which withhold public records;

Permit Federal judges to look, privately, at documents which the Government claims have been classified to protect national defense or foreign policy;

Add the Postal Service and all other Government corporations to the list of Federal agencies covered by the freedom of information law;

Require every Federal agency to report to Congress each year on its stewardship of the law; and

Change the identification necessary for documents requested under the law to require only a "reasonable" identification.

Mr. Chairman, I am proud of our Government Operations Committee for the diligent and painstaking work that has gone into preparing and presenting this bill. It is based on more than 2 years of hearings, study, and deliberations. It gets at major problems uncovered by shoddy and insensitive administration of the freedom of information law by executive agencies and deserves the support of all Members of this body.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. All time having expired, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The fourth sentence of section 552(a)(2) of title 5, United States Code, is amended by striking out "and make available for public inspection by copying" and inserting in lieu thereof ", promptly publish, and distribute (by sale or otherwise) copies of".

(b) Section 552(a)(3) of title 5, United States Code, is amended by striking out "on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed," and inserting in lieu thereof the following: "upon any request for records which (A) reasonably describes such records, and (B) is made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed,".

(c) Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) Each agency, upon receipt of any request for records made under this subsection, shall—

"(A) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the date of such receipt whether to comply with the request and shall immediately notify the person making the request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

"(B) make a determination with respect to such appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the date of receipt of such appeal.

"Any person making a request to an agency for records under this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with subparagraph (A) or (B) of this paragraph. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to the person making such request."

(d) The third sentence of section 553(a)(3) of title 5, United States Code, is amended by inserting immediately after "the court shall determine the matter de novo" the following: ", and may examine the contents of any agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b),".

(e) Section 552(a)(3) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the United States or the officer or agency thereof against whom the complaint was filed shall serve a responsive pleading to any complaint made under this paragraph within twenty days after the service upon the United States attorney of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown. The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the United States or an officer or agency thereof, as litigant, has not prevailed."

SEC. 2. Section 552(b)(1) of title 5, United States Code, is amended to read as follows:

"(1) authorized under criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy;".

SEC. 3. Section 552 of title 5, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Operations and the Committee on the Judiciary of the Senate. The report shall include—

"(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

"(2) the number of appeals made by persons under subsection (a)(5)(B), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

"(3) a copy of every rule made by such agency regarding this section;

"(4) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

"(5) such other information as indicates efforts to administer fully this section.

"(e) Notwithstanding section 551(1) of this title, for purposes of this section, the term 'agency' means any executive department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency."

SEC. 4. The amendments made by this Act shall take effect on the ninetieth day beginning after enactment of this Act.

Mr. MOORHEAD of Pennsylvania (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 Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments?

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE: On page 4, lines 9 through 14, strike all of subsection (d) and insert the following in lieu thereof:

"(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include—"

Mr. WHITE. Mr. Chairman, my amendment to the Freedom of Information Act bill is designed to bring the bill in conformity with the rules of the House. I cite you on page 542, rule 40, entitled "Executive Communications":

Estimates of appropriations and all other communications from the executive departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker, and be referred as provided by clause 2 of rule 24.

Clause 2 of rule 24 states:

Business of the Speaker's table shall be disposed of as follows:

Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from the heads of departments, and other communications addressed to the House . . . may be referred to the appropriate committees in the same manner. . . .

Section 3 of the bill calls for submission of a report by each agency to the Government Operations Committees of the House and Senate and to the Senate Judiciary Committee. But, according to the House rules all such agency reports must first be directed to the Speaker of the House. Then the Speaker may refer them in accordance with rule 24, clause 2, to the appropriate committee. I understand the Senate has the same procedure.

If you desire to maintain order in the application of our rules to our bills, then my amendment should be adopted. Although my amendment may be a technical one, it is offered with the purpose of keeping the laws we make on submission of agency reports consistent with the rules we have made for ourselves.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I am glad to yield to the chairman of the subcommittee.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman from Texas (Mr. WHITE), has been kind enough to provide us with a copy of his amendment. Insofar as the members of the committee on this side are concerned, we would accept this amendment.

Mr. WHITE I thank the gentleman.

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

Mr. WHITE. I am glad to yield to the gentleman from Illinois.

Mr. ERLENBORN. Might I call to the gentleman's attention what I consider to be a statement which perhaps is confusing in his amendment. It says "strike all of subsection (d) and insert the following in lieu thereof:" and then the material referred to is inserted. That might be construed as striking out all of subsection 1 through 5 in that subsection. I know that is not the gentleman's intention.

Mr. WHITE. No. It is lines 9 through 14 that would be stricken by the wording of the amendment. That covers the areas that I am interested in.

Mr. ERLENBORN. Then it is clear that the gentleman only intends to strike the material in lines 9 through 14?

Mr. WHITE. Yes; according to the language of the amendment.

Mr. ERLENBORN. I thank the gentleman.

Mr. Chairman, I see no objection to the language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ECKHARDT, 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. 12471) to amend section 552 of title 5, United States Code, known as the Freedom of Information Act, pursuant to House Resolution 977, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

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

Mr. BUCHANAN. 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 383, nays 8, not voting 41, as follows:

[Roll No. 89]

YEAS—383

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gunter
Guyer
Haley
Hamilton
Hammer-schmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kuykendall
Kyros
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patten
Perkins
Pettis
Peyser
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—8

Beard
Burleson, Tex.
Dickinson

Hosmer	Satterfield	Young, Fla.
Landgrebe	Waggonner	

NOT VOTING—41

Anderson, Ill.	Johnson, Colo.	Price, Tex.
Annunzio	Jones, Ala.	Rangel
Arends	Kluczynski	Rees
Armstrong	McEwen	Reid
Brasco	McKay	Rhodes
Brotzman	Metcalfe	Robison, N.Y.
Carey, N.Y.	Mizell	Rooney, N.Y.
Clay	Montgomery	Runnels
Collier	Murphy, Ill.	Stuckey
Collins, Ill.	Owens	Teague
Cotter	Patman	Wilson, Charles, Tex.
Dorn	Pepper	
Gray	Pickle	Wolff
Gude	Podell	Young, Ill.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Owens.
Mr. Rooney of New York with Mr. Pickle.
Mr. Cotter with Mr. Anderson of Illinois.
Mr. Rangel with Mr. Gude.
Mr. Brasco with Mr. Arends.
Mr. Gray with Mr. Mizell.
Mr. McKay with Mr. Brotzman.
Mr. Podell with Mr. Price of Texas.
Mr. Metcalfe with Mr. Reid.
Mr. Teague with Mr. Montgomery.
Mr. Wolff with Mr. Armstrong.
Mr. Pepper with Mr. Rhodes.
Mr. Kluczynski with Mr. Johnson of Colorado.
Mr. Jones of Alabama with Mr. Collier.
Mr. Carey of New York with Mr. McEwen.
Mr. Clay with Mr. Rees.
Mrs. Collins of Illinois with Mr. Runnels.
Mr. Stuckey with Mr. Robison of New York.
Mr. Dorn with Mr. Young of Illinois.
Mr. Murphy of Illinois with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO POSTPONE FURTHER CONSIDERATION OF H.R. 69, ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that further consideration of H.R. 69, the bill to amend and extend the Elementary and Secondary Education Act of 1965, be postponed until Tuesday, March 26, 1974.

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

Mr. QUIE. Mr. Speaker, reserving the right to object, I just want to point out that the Committee on Education and Labor tried to be fair to everyone by asking the Committee on Rules to provide a rule that there be some days between general debate and the consideration of the 5-minute rule, and 3 legislative days were set aside by the rule. That ought to be ample opportunity for anyone.

We could have asked for a rule which would have permitted us to go right into the 5-minute rule after general debate and we would have been in the amendment stage right now.

I understand some Members are not happy because they have not had enough time. All the information is available now that would be available a week from now for the Members to consider; so I really think it is unreasonable that we start delaying. It is primarily important that we get moving so the schools will know what next year's program will be like.

Since the chairman of the committee asks that we put it over until a week from Tuesday, March 26, I withdraw my reservation of objection.

I just wanted to let the gentleman know my displeasure.

The SPEAKER. Is there objection to the request of the gentleman from Texas (Mr. PERKINS)?

Mr. STEIGER of Wisconsin. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

LEGISLATIVE PROGRAM

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

Mr. ARENDS. Mr. Speaker, I take this time to ask the majority leader if he will kindly announce the program for next week.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

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

Mr. O'NEILL. Mr. Speaker, in reply to the distinguished minority whip and acting minority leader, may I say that the program has been made up in the following way. The program for the week of March 18, 1974, is as follows:

On Monday there will be the call of the Consent Calendar to be followed by four suspensions:

S. 1206, amend section 312 of Immigration and Naturalization Act;

H.R. 6371, Indian financing and economic development;

H.R. 10337, Navajo-Hopi partition; and

S. 2771, special pay bonus structure relating to members of the Armed Forces.

On Tuesday there will be the call of the Private Calendar, to be followed by three suspensions:

S. 2174, changes in definitions of widow and widower under civil service retirement system;

H.R. 12503, Narcotic Addict Treatment Act; and

H.R. 12417, National Diabetes Mellitus Act.

Mr. Speaker, under the rule adopted Tuesday the Elementary and Secondary Education Act, H.R. 69, must come up on Tuesday next. As the Members know, the chairman of the committee, in response to the requests of many Members, has asked for a further postponement of this matter because of the complexity of the formula that is in the bill, the formula the gentleman from Michigan (Mr. O'HARA) is going to offer as an amendent, and other formulas which are going to be presented.

For example, Mr. Speaker, in my own home district, I understand the city of Boston loses $476,000, while my two other cities and three towns are making a net gain on the bill. There is tremendous concern among the Members of Congress who want to know how the different formulas will affect their particular areas. Some of the Members have six or seven counties, and it is not clear how their districts will be affected in total.

That was the reason the chairman asked unanimous consent that the matter go over to a week from Tuesday.

Upon taking it up, it is expected that as soon as possible, the committee will rise and we will go into the program. In other words, we will take the matter up because there has been an objection, and we expect that the committee will rise immediately. We think this is the fair thing to do because there have been so many requests by the Members of Congress on both sides of the aisle with respect to so many formulas that will probably be pending at that time.

Therefore, I will have to include on the legislative program for Tuesday the Elementary and Secondary Education Act.

For Wednesday and the balance of the week we will have H.R. 12435, the fair labor standards amendments, subject to a rule being granted. Then, we have H.R. 11929, the Tennessee Valley Authority pollution control facilities, subject to a rule being granted. After that we have H.R. 12920, the Peace Corps authorization, subject to a rule being granted.

In addition, we have H.R. 12412, Foreign Disaster Assistance Act, subject to a rule being granted. Then, we have H.R. 11989, Fire Prevention and Control Act, subject to a rule being granted.

Finally, we will have H.R. 11105, nutrition program for the elderly, subject to a rule being granted. Conference reports may be brought up at any time, and any further program will be announced at a later date.

Mr. ARENDS. Mr. Speaker, let me just say to the gentleman from Massachusetts that I am pleased that he did not consider the primary in Illinois next Tuesday, because I think that a few years ago we established a precedent in the House that we would not be out of session on primary days. I hope we do not start that again.

Mr. O'NEILL. Mr. Speaker, I assure the gentleman from Illinois that it has no bearing on our decision.

Mr. ARENDS. Mr. Speaker, I am very pleased with the response of the gentleman from Massachusetts.

Mr. Speaker, I would like to ask one further question of the distinguished majority leader. I notice that he made no reference to post-card registration. Has that been given any consideration?

Mr. O'NEILL. Mr. Speaker, there are no plans for it for next week.

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

Mr. ARENDS. Mr. Speaker I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I want to thank the gentleman very much for yielding to me.

Mr. Speaker, I renew my unanimous-consent request to see if the gentleman from Wisconsin (Mr. STEIGER) will withdraw his objection.

Mr. Speaker, I now ask unanimous consent that the consideration of H.R. 69, the bill to amend the Elementary and Secondary Education Act, be postponed until Tuesday, March 26, 1974.

Mr. STEIGER of Wisconsin. Mr. Speaker, reserving the right to object, the Elementary and Secondary Educa-

tion Act expires on the 30th of June, is that correct?

Mr. PERKINS. That is correct.

Mr. STEIGER of Wisconsin. Mr. Speaker, I find absolutely no reason to believe that this House ought to abdicate its responsibility in the consideration of ESEA. The formula is complicated. It cuts across all States and all counties; it affects everybody somewhat differently, and every formula affects somewhat differently everybody in this Chamber.

The rule under which this bill came up clearly said that we would start the debate on 1 day, go over 3 legislative days, and then come back and continue this bill.

Mr. Speaker, I must say in all honesty that if, in fact, we are going to go through this charade and if, in fact, by my objection—and I shall object—we then get into a situation where we start the debate on ESEA and then move that the Committee rise, we ought to have a vote on that, in order to be fair to each side, and decide whether or not we should start consideration of the bill or not start consideration of it.

If we decide we want the Committee to rise, so be it. That is the way the ballgame is played.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. Of course, I will yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, the Committee on Education and Labor has studied this matter since last August. A formula was finally worked out and passed the committee by a vote of 31 to 4.

In view of the fact that there has been so much consternation among the Members on both sides of the aisle with regard to the formula, does not the gentleman think it fair that we should give the Members of Congress this added week? We are not doing it by reason of the fact that there is a primary in Illinois. That is of no concern whatsoever.

The Speaker has made the decision and has asked for the chairman of the committee to go along on a week's delay because he has had an unusual number of requests concerning this matter.

Mr. STEIGER of Wisconsin. Mr. Speaker, further reserving the right to object, I am mindful and deeply respectful of the problems faced by the distinguished majority leader, both within the Congress and within the gentleman's district.

This bill was reported by the Committee on Education and Labor some weeks ago. The Committee on Education and Labor, if I may say so, labored long and hard to achieve a formula that would effectively reconcile and balance the needs of the poor and the disadvantaged in the United States. I think the formula is a good one.

I recognize there are some Members in some States who do not believe it was fairly handled, but I think they have had more than an adequate chance to express their views. They are exceedingly well represented on the Committee on Education and Labor. The Members from the State of New York are a very sizable part of our Committee on Education and Labor.

They know what happens to the formula. They have known for weeks what happens to the formula.

Mr. Speaker, I will again say to the House and to the distinguished majority leader that I simply do not believe that further delay is justified.

Mr. THOMPSON of New Jersey. Mr. Speaker, before the gentleman objects, will the distinguished gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Speaker, I happen to represent one of the States which would be vitally affected by the formula in title I of the Elementary and Secondary Education Act.

Only this morning I received information that involves my State. I do not know who programs the computers for the several States and counties. I had three versions of the effect title I formula would have on the State of New Jersey and on the other States as well, but I particularize the State of New Jersey.

I see no danger, I say to my friend, the gentleman from Wisconsin, that the act will expire June 1; but I do think most sincerely that a few additional days, the modest number of days that have been requested by the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) might prove extremely valuable to each and every Member.

The extremely complicated effect of the flow of dollars to the children in all of our school districts should be evaluated by each Member.

Were I the gentleman from Wisconsin, I would probably make the objection a week from now. However, I do ask the gentleman most respectfully not to object now so that we can evaluate the effect of this on our States, and our counties and on our school districts. I do not think that any injustice will be done by granting this request.

Mr. STEIGER of Wisconsin. Mr. Speaker, further reserving the right to object, I am impressed and almost moved by the plea of the gentleman from New Jersey.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT OVER TO MONDAY, MARCH 18, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

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

There was no objection.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

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

There was no objection.

PERSONAL EXPLANATION

Mr. HENDERSON. Mr. Speaker, on rollcall No. 79, March 12, 1974, I was in the Chamber, placed my card in the box, but was not recorded.

Had I been recorded, I would have been shown as present.

PARLIAMENTARY INQUIRIES RELATING TO ELEMENTARY AND SECONDARY EDUCATION ACT

Mrs. MINK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCFALL). The gentlewoman will state it.

Mrs. MINK. Mr. Speaker, in view of the objection just raised on the request made for consideration of the Elementary and Secondary Education Act a week hence from the time when it was scheduled, in view of the rule adopted which requires 48 hours advance notice prior to the taking up of any amendments under title I, what is the time requirement with respect to the filing of said amendments in order that they may be taken up when we do take up the bill next week?

The SPEAKER pro tempore. In reply to the gentlewoman's parliamentary inquiry, the Chair would read from the rule, which says:

> No amendment shall be in order to title I of said substitute except germane amendments which have been printed in the Congressional Record at least two calendar days prior to their being offered during the consideration of said substitute for amendment, and amendments offered by the direction of the committee—

And so forth.

As the Chair understands the gentlewoman's parliamentary inquiry, the question is what happens to those amendments. All amendments printed in the RECORD 2 calendar days prior to the time they would be considered would be in order.

If we are to take up the bill on Tuesday, then the amendments would have to be printed in the RECORD 2 calendar days prior to that time.

Mrs. MINK. A further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. MINK. As I understand it, the House has an obligation to notify Members of the specific date on which this particular bill and title will be taken up in order that we may have advance notice as to when the 48 hours would begin to run. Do I understand the Speaker to indicate that all amendments that are to be considered for the debate on Tuesday must be filed this afternoon in order that they may be offered on Tuesday of next week?

The SPEAKER pro tempore. Two calendar days prior would mean they would have to appear in the RECORD that will be printed tonight. That is right. They would have to be printed today in order to be eligible on Tuesday.

Mrs. MINK. I thank the Speaker.

Mr. THOMPSON of New Jersey. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from New Jersey will state his parliamentary inquiry.

Mr. THOMPSON of New Jersey. Mr. Speaker, my parliamentary inquiry is this:

If in fact, as the Chair has ruled, that amendments under the unique rule—which, I might say parenthetically, is the first of this sort that I have seen in the years that I have been here—must be printed by tonight, does this not mean that any amendment under the rule must—except a committee amendment—be printed by midnight tonight, or else there will be no further opportunity for any other proposed amendments to be printed after tonight; and, further, that any amendment printed in the Record as of tonight will not be amendable on the floor; it must be voted up or down, except a committee amendment?

The SPEAKER pro tempore. The Chair will state that the answer to the second part of the parliamentary inquiry raised by the gentleman from New Jersey (Mr. THOMPSON), is yes; that is correct.

With reference to the first part of the gentleman's parliamentary inquiry, the Chair would state that if the House considers the bill, as is required under the rule, on Tuesday, any amendment which is considered on that day, would have to be printed in the RECORD by midnight tonight. However, the Chair would further state that there is no way to judge what the House might do on Tuesday with a motion by the Committee to rise and not consider the legislation further, in which case further consideration of the legislation were scheduled for a later date, then there would be further time for printing proposed amendments in the RECORD.

Mr. THOMPSON of New Jersey. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman from New Jersey understands the ruling of the Chair, any amendment must be submitted for printing by tonight, and unless, under very unusual circumstances, the Committee votes to rise, there would be no further opportunity on Tuesday, or, indeed, on Monday, to have printed perfecting amendments which can be considered under this rule?

The SPEAKER pro tempore. The Chair would state in reply to the parliamentary inquiry presented by the gentleman from New Jersey that certainly the opportunity to present amendments would be limited by that rule on Tuesday. If, however, the legislation went over until Wednesday or some following legislative day, then there would be other opportunities for presenting amendments in the RECORD, depending upon the number of calendar days which might be available.

Mr. THOMPSON of New Jersey. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his further parliamentary inquiry.

Mr. THOMPSON of New Jersey. Mr. Speaker, I will state my parliamentary inquiry in the form of a hypothetical question:

Assuming that on Tuesday a Member of the House from either side, of any persuasion, has a perfecting amendment which that Member thinks might improve the legislation, unless the committee has voted to rise, then a period of 48 hours at least must intervene between the printing of the amendment and the consideration of, and the vote on the amendment; and, further, Mr. Speaker, that the amendment cannot be amended under the rule.

The SPEAKER pro tempore (Mr. MCFALL). In the opinion of the Chair, the gentleman from New Jersey has stated a hypothetical situation which is proper, but if the gentleman would withhold further parliamentary inquiry pending a consultation at the rostrum concerning other hypothetical questions that he might have, including the last one, the Chair might be able to provide a more stable ruling with reference to the situation.

Mr. THOMPSON of New Jersey. The gentleman from New Jersey does not question the stability of the ruling, but with due respect to the Chair I will not pose any further hypothetical questions until the Chair has an opportunity to discuss the matter.

Mr. QUIE. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. QUIE. Is it my understanding of the rule—this is my parliamentary inquiry—that the 48-hour provision applies only to title I of the bill and not to any other title?

The SPEAKER pro tempore. The Chair would respond to the gentleman's parliamentary inquiry by saying that the 2 calendar day rule applies to title I.

Mr. STEIGER of Wisconsin. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. STEIGER of Wisconsin. Mr. Speaker, am I correct in my understanding that the distinguished majority leader asked unanimous consent some time ago that when the House adjourn today, it adjourn over until Monday noon?

The SPEAKER pro tempore. That is correct.

Mr. STEIGER of Wisconsin. Mr. Speaker, a further parliamentary inquiry. If there is a concern on the part of Members that, having adopted the rule, having had knowledge of the schedule outlined in the rule, they are now unsure that they can meet the requirement to file amendments by midnight tonight, would it not be possible for the House to consider a unanimous-consent request that the House meet at noon tomorrow?

The SPEAKER pro tempore. The answer to the gentleman's parliamentary inquiry is that such a unanimous-consent request is always in order while the House is in session.

Mr. STEIGER of Wisconsin. I thank the Speaker.

Mr. PERKINS. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PERKINS. Has unanimous consent been requested that any Member may have until midnight tonight to submit an amendment to title I for the RECORD.

The SPEAKER pro tempore. Unanimous consent has not been requested.

Mr. PERKINS. Mr. Speaker, I now ask unanimous consent that any Member who may wish to offer an amendment to title I, the formula section of the bill, may have until midnight tonight to submit that amendment for the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. PEYSER. Mr. Speaker, reserving the right to object, I am not going to object to this, but I think one thing is of utmost importance as to the real problem here, and I am sure this is a problem that the Committee on Rules did not anticipate because I testified before the Committee on Rules when they made their ruling, and it was the assumption at that time—and has been the statement—that anybody putting amendments in could get the necessary computer printouts within 48 hours, because without computer printouts, it is absolutely impossible for the House to act with any judgment on the impact of these formulas.

I put formulas in and sent them to the Library of Congress, who is doing the computer printouts, on Monday of this week that we are in now. I have not yet received the computer printouts from the Library of Congress. Without the availability of the printouts, one of the reasons that I have been most interested in having this delay go over until the following week, as the majority leader has requested, and the chairman of the committee, was really on the basis that unless we do this, even though I am complying with the rule, all of my amendments will be in the RECORD tonight.

It will be in the RECORD, but without the computer printouts and without the ability of the Members to study these formulas we are absolutely going to be dealing with them blindly, which is the reason I think we should have the request approved and I would like the chairman again perhaps to seek to get a unanimous-consent request, because in effect while we can comply with the regulations of the Rules Committee the one thing they said was we could obtain these printouts in 48 hours. That is not true and we do not have the printouts necessary to present our amendments to the House.

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman will yield, the gentleman has stated very vividly and succinctly the problem. There is no way on earth between the hour of 2:35 and midnight tonight for those of us—and it affects each and every congressional district—who wish to do so to obtain the computer printouts and to have them inserted as part of the amendments

which we intend to offer to the legislation.

If the gentleman will yield further, I renew the unanimous-consent request that the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS), has made.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky as renewed by the gentleman from New Jersey?

Mr. STEIGER of Wisconsin. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, may we have that unanimous-consent request restated?

The SPEAKER pro tempore. The Chair will state the gentleman from Kentucky asked unanimous consent that all Members may have until midnight tonight to print in the CONGRESSIONAL RECORD amendments that would be germane to title I.

Mr. GROSS. Mr. Speaker, further reserving the right to object, is it not true that the rule which has been adopted provides for precisely that procedure, that Members have a certain maximum time, which includes up to 2 legislative days, and that includes up to midnight tonight?

Mr. PERKINS. Mr. Speaker, if the gentleman will yield, the gentleman may be exactly right, I do not know, but I just wanted to make sure and to protect the right of the Members so that they would have until midnight tonight.

The SPEAKER pro tempore. If the gentleman will withhold, the Chair would state that the gentleman from Iowa is probably correct, that the time is available. However, the gentleman from Kentucky could certainly request unanimous consent in order to make certain of that.

Mr. GROSS. Mr. Speaker, further reserving the right to object, I noticed very little opposition to this highly unusual rule when it was adopted. I think those who voted for it should have to live with it, and therefore, I object to this request.

Mr. ARENDS. Mr. Speaker, if the gentleman will yield, the gentleman is expressing exactly my opinion. We voted on the rule last Tuesday, we understood it last Tuesday, and we stated our opinions on it. It was an unusual rule. I think we ought to stand on it.

Mr. GROSS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection has been heard.

No Member has time at this point. Objection has been heard.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Speaker, a parliamentary inquiry in regard to title I that is under discussion. Is a motion to strike the requisite number of words a motion that is necessary or an amendment that is necessary to have printed in order just to get time although we are not going to change the bill?

The SPEAKER pro tempore. The Chair would state in answer to the parliamentary inquiry that a pro forma amendment to an amendment such as is described by the gentleman from Kentucky would not be in order under this rule.

Mr. SNYDER. I thank the Speaker.

PERSONAL EXPLANATION AS TO VOTE

Mr. DANIELSON. Mr. Speaker, during the proceedings of March 11, 1974, I was unavoidably absent when rollcall No. 73 was taken on the adoption of House Resolution 790, to authorize funds for the House Committee on Armed Services. Had I been present, I would have voted "yea."

INTRODUCTION OF INTERLOCK BILL

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

Mr. HARSHA. Mr. Speaker, the Highway Safety Act of 1973 contained a proposal, which I sponsored, relating to safety belt use laws. Bonuses of up to 25 percent of a State's section 402 apportionments are provided to encourage States to adopt such laws.

From all indications, the incentive provision has been well received. The bill I am introducing today will, I believe, constitute an additional incentive to encourage States to adopt safety belt use laws. What it would do is this:

At the present time, new cars sold in this country are required to be equipped with an interlock system and associated buzzers and lights. Their purpose is to force drivers to use safety belts.

The trouble with the interlock system is that it adopts a nuisance approach to highway safety. That is, even though you are not required by law to use safety belts, you must use them if you want to be able to start your car and keep it running.

The nuisance approach seems counterproductive to me. Indeed, I think it is largely responsible for the spate of articles and reports which have recently appeared arguing against seatbelts. That is why I am introducing this proposal. As I see it, once a State has adopted a safety belt use law there will be no further need for interlocks or nuisance buzzers to compel seatbelt usage. My bill makes that clear. Simply stated, it provides that motor vehicles sold in States which have adopted safety belt use laws would no longer have to be equipped with such devices. Their removal would reduce the cost of automobiles and would obviate the operating difficulties which drivers have been subject to in cars equipped with them. The barrage of complaints concerning them has been so severe that the National Highway Traffic Safety Administration is already considering the early revision of the standard governing their installation.

I am hopeful that the prospect of removing interlocks, coupled with the substantial financial incentives provided by section 219 of the Highway Safety Act of 1973 will encourage many States to adopt safety belt use laws. If they do, we can begin to realize very substantial reductions in the accident/injury toll.

If the experience of Australia, where such laws have been in effect for the past 2 years, is any guide, States which do so can look forward to a 25-percent drop in fatalities and as high as a 35-percent decrease in crippling injuries.

Translated to the entire United States this would mean that we would save 10,000 lives a year and reduce serious injuries by 10 times that number.

This, it seems to me, is a goal worth striving for.

COUNTDOWN ON CONTROLS CONTINUES—TIME TO END CONTROLS ONCE AND FOR ALL

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

Mr. STEELMAN. Mr. Speaker, we must end wage and price controls once and for all, and in this regard, I submitted the following testimony to the Committee on Banking and Currency on the Economic Stabilization Act of 1970:

While deliberations continue before this Committee, cash registers across this land are ringing up higher prices, and consumers watch baffled, angered, and unaided while shortages become commonplace on supermarket shelves. Panic buying is almost daily induced with the report of possible difficulties in obtaining such commodities as cocoa, chocolate, paper, or even syrup and raisins.

This state of affairs hardly indicates an economy that is well or on its way to recovery. The symptoms of an unbalanced market system have only been aggravated since August, 1971, and it is time to seek other remedies.

It is apparent to most that something is terribly wrong in the manner prices are precluded from seeking their natural levels in accord with demand. This responsive mechanism of supply and demand that worked so well before the instituting of controls is the best hope for rescuing a faltering wage and price system.

Working men and women are being particularly hurt. All the "phases" the nation has passed through have produced a rise of consumer prices by 8.4% and food prices by 16.5% in a two-year period. Prior to controls the Consumer Price Index was advancing at a rate of 3.8% with food rising at 5%. It is speculative to try to guess what the rate of inflation would have been in the absence of controls, but the record since August 1971 shows alarming jumps in inflation in comparison to the pre-controlled economy.

AFL–CIO President George Meany puts it this way: "After two freezes and four phases, the annual inflation rate, which President Nixon found unacceptable at 4.8% in 1963, was 8% in the first half of 1973."

It would not be fair to cite all the dislocations as a result of a controlled economy. Worldwide shortages of foodstuffs and raw materials have played an integral role. However, after almost three years it has been proven that ceilings on prices are not an adequate long run solution. Accordingly, the Economic Stabilization Act must be repealed.

With the April 30th deadline in sight, Treasury Secretary George Shultz and Cost of Living Council Director John Dunlop have reluctantly concluded that the failure of controls necessitates a new approach. These gentlemen now endorse a decontrolling of all sectors, except petroleum and health. However, the dislocations will not subside in these areas either, unless the pocketbook is permitted to be the allocator and arbitrator.

Secretary Shultz and Director Dunlop are deserting a sinking ship. Secretary Shultz

has indicated he is pleased about the hostility coming to the fore in denunciation of controls.

The Administration has been phasing out controls piecemeal from industry to industry, exempting them from Phase 4. Fertilizer was one product that was decontrolled last fall. Foreign prices were much steeper than U.S. prices, inducing the Cost of Living Council Director John Dunlop to recommend a domestic price rise to stifle the danger of continuing shortages. In order to be exempted, the fertilizer industry was agreeable to increasing production, resulting in moderate price markups. Thus, one sector of the economy is on its way to recovery, but this status is threatened daily by the continuing existence of ceilings in other interdependent sectors. Decontrolling industry by industry is hardly the answer. Decontrol across the board is mandatory as demonstrated by the revival of fertilizer production.

C. Jackson Grayson, Paul W. McCracken, and William J. Fellner, all at one time economic advisors to the Administration, cite the hallmarks of the program to date: static paychecks outdistanced by controlled prices, lessening incentives for economic growth and investment, and general despair.

Professor Fellner pronounced Phase 4 as bad economics, as well as poor politics. Attacking the price control program, Fellner states that the treatment of an overexpanding economy is proceeding "by outlawing its symptoms"—higher prices. A far better approach he cites would be the cooling of expansion through the tightening of government spending and monetary restraint.

The following article, taken from U.S. News & World Report of October 20, 1973, which I submit for the record, is sobering in its impact:

LATEST THREAT TO THE BOOM: SHORTAGES WHEREVER YOU LOOK

In one line of business after another, you hear this growing complaint—Shortages of key materials are getting worse, spreading from factories to distributors and on to retail customers.

Says an executive of a major industrial company: "Many Americans, for the first time, are finding they can't always buy what they want when they want it."

A look at what lies ahead offers little comfort. In scores of key products, from steel, paper and plastics to heating oil, textiles, tools and motor bearings, supply troubles are expected to keep piling up for both producers and users.

Some typical developments:

A worsening shortage of chemical fertilizer is being felt throughout the U.S., casting doubt on whether farmers will be able to meet next year's production goals for fruits, vegetables and meat. Industry authorities say the fertilizer squeeze will last into 1975.

A pinch on supplies of cocoa and chocolate is pushing up the price of ingredients for candy, and fostering use of substitutes. A candy manufacturer in the Far West says chocolate flavoring increasingly will be made from substitutes as prices of cocoa butter and other basic ingredients go up in price and remain scarce, worldwide.

At the European assembly plant of a U.S. farm-equipment manufacturer, 300 small combines sit idle because of lack of a single part for each engine. The parts come from a Detroit supplier—and that firm, in turn, can't keep up with demand.

The basic-steel industry, plagued for years by foreign competition and lagging demand, suddenly finds itself with a huge backlog of orders that is taxing capacity of mills. Conditions probably will get tighter into 1974, say steel executives. This adds to supply problems in such steel-using businesses as autos, electrical appliances, farm implements, heavy machinery, office equipment and industrial construction.

A shortage of wood pulp, resulting partly from strikes at Canadian plants but even more markedly from foreign competition, has caused some newspapers and magazines to cut down on size and number of pages to ration scarce supplies of paper. One magazine publisher notes that there's "a natural tendency for wood pulp for papermaking to move abroad, where the open-market price is $350 a ton, compared with a Government-regulated price of $200 a ton in the U.S."

The list goes on and on—including most metals, petroleum, plastics, cotton textiles, corn syrup and raisins for confectionery and baked goods, bearings for motors, and dozens of other items.

BOTTLENECKS AT THE TOP

The falling-domino effect of shortages that spread throughout industry is summed up in a study by this magazine's Economic Unit.

"When the major materials industries reach their capacity," the study notes, "production is slowed in all other industries which depend on their products. It does little good to have excess capacity in industries down the line in the manufacturing process, if the basic-materials industries are not churning out enough raw materials for them to process."

Says the plant manager for a Southern industrial company:

"Many people are just beginning to get an education in the interdependence of our economy. You interrupt supply at one point and things begin happening all down the line."

Charles B. McCoy, chairman of the Du Pont Company, adds this:

"Despite all the public discussion about petroleum supplies and national needs, few people really understand how important oil and gas have become, not just as fuels, but also as feedstocks for the manufacture of products."

Mr. McCoy continues:

"Oil and natural gas are the beginning materials for the production of almost all the major plastics sold today, for all the truly synthetic man-made fibers, for many pharmaceuticals, for many biochemical products used in agriculture, for all synthetic rubbers and for basic chemicals, such as methanol, which are essential to the manufacture of hundreds of industrial and consumer products."

JOB CUTBACKS?

Elsewhere in the petrochemical industry, officials talk about the threat of job cutbacks because of the lack of all the petroleum needed to keep chemical plants busy.

Arthur G. Foster, vice president of purchasing and transportation for Western Electric Company, the manufacturing and supply unit of the Bell System, reports tight supplies of metals, textiles, plastics and wood pulp.

Adds Mr. Foster: "Two of the most critical are plastics and copper."

Many electronic-equipment manufacturers, including Western Electric, also report shortages of resistors, capacitors and integrated circuits.

PRESSURE FROM OVERSEAS

The Cost of Living Council has been deeply concerned about rising prices of internationally traded industrial raw materials for some time. Officials see no immediate letup in this price pressure and have not taken any action to overcome it, although Council Director John T. Dunlop indicates some steps to erase fertilizer shortages may come "soon."

Claude O. Stephens, chairman of Texasgulf, Inc., a major U.S. basic-materials firm, says present price controls have diverted sales of fertilizer to foreign markets because U.S. prices have been running $25 a ton below the world market.

Mr. Stephens adds that 20 per cent of his firm's copper output will be sold on the London Metal Exchange, where prices are determined by bidding, rather than in the U.S., where prices are controlled by the Government.

Economists are beginning to be concerned about the impact on jobs as many companies bump up against shortages of plant capacity.

Says Dr. Paul W. McCracken, professor of business administration at the University of Michigan and former Chairman of President Nixon's Council of Economic Advisers:

"In this current expansion, we obviously have run out of plant capacity before we have run out of employable labor. . . . A certain amount of further investment is needed for there to be a productive job available for each new entrant to the work force. And if that investment does not take place, the jobseeker may find himself stranded."

Growing scarcities—particularly of some imported materials—have put upward pressure on prices. The effect is shown in the chart on this page.

Worldwide shortages of zinc and copper, as an example, have forced producers of copper and brass products to pay premium prices for raw materials. On October 15, Revere Copper & Brass, Inc., cited skyrocketing prices for raw materials in raising price tags on copper water tubing and other plumbing items.

Confronted with the prospect of continued scarcities of basic raw materials and manufactured goods for months and perhaps years to come, many companies have begun to search for substitutes, along with more-efficient methods of production.

For example, the paper industry for the first time this year will use as much waste paper, wood chips and other secondary sources of material as it will new pulpwood logs to produce paper products. Industry officials say that, in years to come, recycled newspapers, paperboard, other wastes will be used to a much larger extent than logs.

Waste acid, a by-product of one Du Pont product, is being converted back into chlorine to save on raw materials.

Officials of the fertilizer industry concede there is little hope of easing the shortage of nitrogen fertilizer through 1975. But opening old phosphate plants and adding some new capacity to existing facilities will improve the outlook for phosphates.

Talk of plastics' replacing copper and zinc, which has gone on for years, no longer seems as likely a prospect now that many plastics are in short supply.

NEEDED: MORE CAPACITY

By and large, industry analysts say, putting an end to shortages will depend primarily on expanding the country's ability to produce the basic raw materials it needs rather than searching for substitutes.

The Economic Unit study notes that in September, the 12 U.S. industries that produce most of the materials used by other manufacturers were operating at 94.4 per cent of full capacity, based on Federal Reserve Board figures. This gives them little room to expand production in response to demand.

The paper industry has been working at near capacity for more than a year. Added production will be going on line in 1974, but one official says: "We will have increased tightness."

The cement industry is falling behind demand and a shortage of 5 million tons may exist by 1975. It would cost the industry an estimated 2 billion dollars to catch up with customers' needs by 1975, authorities say, adding that this outlay is "totally beyond the bounds of practical possibility."

Worldwide shortages of fertilizer are expected to remain as long as there is a scarcity of natural gas. The Fertilizer Institute, an industry trade group, estimates that the shortfall of nitrogen fertilizer in the United States alone in 1974 may reach a quarter of a million tons.

The steel industry estimates that it must add 20 to 25 million tons of new capacity by

the end of this decade, as well as replacing older existing plants. Total cost: 3 to 4 billion dollars a year.

Many financial analysts agree that firms in basic industries such as steel have not been popular with investors in recent years, making it harder for these companies to raise the capital they need badly for additional capacity to meet customers' growing demands.

Stewart S. Cort, chairman of Bethlehem Steel Corporation, says his industry is in "the peculiar position of having before it highly favorable prospects for market growth but serious problems in obtaining the funds needed to take advantage of them."

Other basic industries are in much the same spot.

It all adds up to an era of stringency for a great many businesses, and adjustments for consumers as they come to terms—at least for a while—with shortages of some everyday products.

AS SUPPLIES ARE PINCHED, PRICES GO SOARING

Increases in prices of raw materials and wholesale products in the past year—

	Percent
Cotton	215
Wheat	118
Animal fats, oils	109
Rayon	104
Vegetable oils	94
Eggs	90
Soybeans	85
Steel scrap	84
Corn	84
Rubber	80
Wool	68
Wastepaper	66
Animal feed, processed	61
Tin	35
Lumber	31
Petroleum products	31
Wood pulp	20
Copper	18
Mercury	17
Zinc	17
Man-made fibers	17

Source: Dow Jones & Company; U.S. Dept. of Labor.

Without doubt, it can be stated that there is no future for wage-price controls. Naturally, decontrol will result in price rises, as will control. In the long run, curbing inflation will be the result of bringing supply into balance with demand, which will occur more quickly without controls.

WILL THE LEGAL SERVICES CORPORATION ENCOURAGE POLITICAL KIDNAPING

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

Mr. ROUSSELOT. Mr. Speaker, during what has unfortunately become a season of political kidnapings, it is appropriate that we focus attention on a political "kidnaping" which began in 1964 and which has been continuously perpetrated, with ever-escalating demands, ever since.

I am referring to the establishment, with minimum fanfare and no congressional authority, of a legal services program to be conducted under the auspices of the then newly created Office of Economic Opportunity. The kidnaping took place through the vehicle of the "staff attorney" system, which created an OEO monopoly over the delivery of legal services to the poor. To better appreciate what has taken place, one must consider an analogy to health care and imagine that the Nation had gone, in a matter of a few years, from privately provided health care to socialized medicine without ever pausing at a program such as medicare which at least allows its beneficiaries to choose their own doctors.

The present legal services program, with its monopolizing "staff attorney" system, has been characterized by untold numbers of flagrant abuses, including the representation of ineligible clients and the use of legal services resources for political purposes. Supporters of the present program have answered demands for reform with a counterdemand of their own—that Congress, through H.R. 7824, create a "Legal Services Corporation" which will be able to continue to carry on the abusive practices in a sheltered environment which will insulate the program from congressional oversight. The present monopoly status of the OEO legal services program enables staff attorneys to hold the poor as hostages against the creation of a corporation for the benefit of the attorneys themselves against the interests of poor clients and taxpayers alike.

It is my firm belief that Congress cannot fairly consider the merits of the proposed corporation until the "political prisoners" held by the present staff have been freed and given a reasonable opportunity to choose their own attorneys. I therefore propose that consideration of H.R. 7824 be deferred pending the development of such alternatives as "judicare" which can set the poor clients free from their attorney captors. Then, and only then, will Congress be in a position to consider the objective merits of corporation proposals.

VIETNAM A NEW BALL GAME

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from New Jersey (Mr. FRELINGHUYSEN) is recognized for 60 minutes.

Mr. FRELINGHUYSEN. Mr. Speaker, In our current preocupation with such domestic problems as impeachment, the energy crisis, and congressional elections, it is all too easy for us to become diverted from this country's international responsibilities. However, these are responsibilities which simply will not go away or disappear by the application of wishful thinking, or by trying not to think about them.

As Secretary Kissinger recently pointed out, we are witnessing the "birthpains of global interdependence." This is another way of saying that what happens to the United States abroad inevitably affects what happens to us at home. It is an illusion, Mr. Speaker, to believe that we can resolve our domestic difficulties by ignoring the rest of the world, and the vital role which the United States must continue to play in that world.

Ironically, one area which appears presently in danger of being forgotten by this body is Vietnam. Vietnam has been the focus of international attention for over a decade and, obviously, has been a primary concern of the United States over that period. I have just returned from a visit to that country, among others, on a study mission undertaken in behalf of the Committee on Foreign Affairs. I might add, Mr. Speaker, that the only other Member of Congress to have visited that country since last August was my distinguished colleague from Illinois (Mr. CRANE), who was in Vietnam in January. This was one of the reasons why I specifically added Vietnam to my itinerary.

During my brief sojourn there, I met with President Thieu, Prime Minister Khiem, Foreign Minister Bac, and a host of other Vietnamese and American officials, including U.S. Ambassador Graham Martin. I also spent 1 day in the Mekong Delta region. I had the opportunity of visiting the Port of Rach Ghia on the Gulf of Thailand and the provincial capital of Can Tho. My impressions of this visit will be summarized in a report to my committee which will be released in due course.

At this point, however, I wish merely to provide my colleagues with a few general conclusions based on my recent experience. I emphasize the word recent. I am convinced that a very new and different situation exists there now, a situation which is of direct significance to the United States.

Let me cite a few of these impressions:

First. South Vietnamese confidence in defense efforts: First of all, the Vietnamization process is now virtually complete. The South Vietnamese are carrying the burden of their own defense against the continuing heavy probing and harassment operations of the other side. The recent successes of the ARVN forces in carrying out this responsibility—without the assistance of U.S. or other armed forces personnel—has obviously led to a new attitude of self-reliance and self-confidence. It has led also to a widespread feeling of national unity under the leadership of President Thieu. President Thieu's position, ironically, seems to have been strengthened rather than weakened by the completion of the substantial U.S. withdrawal. These attitudes, I might add, are in striking contrast to the situation which existed at the time of my last visit in October 1963.

Second. Military situation: The military situation remains critical. The North Vietnamese have ignored the Paris agreement of January 1973, calling for a cease-fire. They have moved more supplies and heavy equipment into the south—since the so-called cease-fire began—than existed just prior to the full-scale 1972 spring offensive.

Nevertheless, there is a general conviction among South Vietnamese that the ARVN forces can counter another major offensive if it comes now—under present conditions. If, however, U.S. supply operations are drastically curtailed, and if essential aid is not forthcoming, it is feared that the balance could be tipped in favor of Hanoi. This in turn could tempt Hanoi to launch a new offensive.

As one Vietnamese official put it to me, as long as a reasonable military balance is maintained, the Soviets and Chinese

will probably urge moderation on Hanoi. There is no current indication of a massive replacement and resupply effort to Hanoi by these countries. If, however, South Vietnam becomes demonstrably weakened and vulnerable, the "big brothers" might feel obliged to support a new offensive. At the moment, an imminent, all-out offensive appears unlikely. It is obviously in the U.S. interest to keep it that way. It is my strong conviction that the United States should not upset this delicate balance by supplying either more or less than circumstances require.

It is particularly important, Mr. Speaker, to realize, that if we do less than is reasonable and necessary, we will be contributing not toward peace in Vietnam, but to the likelihood of renewed hostilities.

Third. Economic situation: Although the military situation remains stable and encouraging, the same cannot be said for the state of Vietnamese economy. Their economy has been steadily deteriorating since 1971.

The intensity of the fighting which took place in the spring and summer of 1972 obviously caused widespread damage and destruction of the existing infrastructure. As the International Monetary Fund reported in its March Survey:

About 5,000 kilometers (3,108 miles) of provincial and interprovincial roads, 200 major bridges, 500 schools and 500 rural dispensaries need immediate repair.

Mr. Speaker, at this point I include in the RECORD an article in the IMF Survey of March 4, entitled "Vietnam: Dimensions of the Task of Rebuilding From Years of Strife." The article follows:

VIETNAM: DIMENSIONS OF THE TASK OF REBUILDING FROM YEARS OF STRIFE

The lengthy war in Viet-Nam has had a severe impact on its economy, especially after military activities intensified in the mid-1960s. The war not only disrupted production and distribution, but also created enormous sociological and economic problems, particularly evident in the displacement of a large part of the population.

Since 1964 about one sixth of the previously cultivated areas have been abandoned for more than ten years, and an estimated 5 million people have been registered as refugees out of a total population of about 20 million. About 5,000 kilometers (3,108 miles) of provincial and interprovincial roads, 200 major bridges, 500 schools, and 500 rural dispensaries need immediate repair. Waterways and irrigation systems have been damaged or neglected.

Owing mainly to disruptions of agricultural production, the rate of real economic growth has slowed down, averaging 2 per cent per anum during 1966–72, compared with 7 per cent during 1961–65. Over time, the major structural effects of the war have included an overexpansion of the services sector, the discouragement of agricultural output and exports as well as substantial and rising budget deficits, and a heavy dependence on imports and foreign aid. By the early 1970s, per capita imports amounted to US$40 and the inflow of foreign assistance to US$30 per capita. The budget deficit and the fundamental disequilibrium on external accounts (exports accounting for 5 per cent of imports) explain why priority in recent years had to be given to short-term stabilization policies.

The authorities now face the urgent tasks of reconstruction and rehabilitation of the war-torn economy and the creation of appropriate conditions for redeploying into agriculture and industry a large part of those previously employed in the service sector. The task is aggravated by the still critical security situation in the countryside, the weak balance of payments position, the precarious budgetary situation, and a rapid pace of inflation.

AGRICULTURE AND INDUSTRY

Viet-nam has a total area of 171,691 square kilometers (66,290 square miles), of which 16 per cent is cultivated. Up to the early 1960s, agriculture was the main source of employment and the major foreign exchange earner, rubber, rice, and tea being the three principal export products. With the intensification of military activities in the 1960s, agricultural output was adversely affected and exports of agricultural products declined sharply; in fact, since 1965 Viet-Nam has been a large importer of rice as well as of other basic foodstuffs.

In the last three years agricultural output has failed to show any significant gains; this is particularly true for rice. The 1972/73 rice crop was virtually unchanged from 1971/72 because of unfavorable weather conditions, insecurity, and reduced use of fertilizers due to higher prices. In the second-half of 1973, low rice stocks and difficulties experienced by the Government in procuring rice, mainly as a result of hoarding by farmers in anticipation of higher prices, created rice shortages in Saigon and a surge in free market prices. In early 1974, the rice situation had improved with the coming of the new crop to the market.

Manufacturing activity in Viet-Nam is still little developed, accounting for less than 10 per cent of net domestic product. Activities in the traditional agroindustries stagnated in the 1960s, but several new industries were established including food processing plants, textile, pulp and paper factories, animal feed mills, a cement plant, and plastic factories. The stepped-up military operations of 1972 adversely affected industrial production, which by mid-1973 had not regained its levels of the early 1970s. In addition to the security situation, a variety of factors have tended to depress the investment climate, including the reduction in purchasing power of most sections of the urban population, shortages of skilled labor, and rising costs of imports.

With a view to promoting industrialization, the Government had taken a number of measures, including the establishment of industrial parks and export processing (duty exempted) zones, financial assistance to enterprises, and a new Investment Law introduced in 1972. The provisions of the law aim at boosting domestic investment and at attracting foreign capital by providing investors with a five-year tax holiday, government guarantees of sufficient foreign exchange for imports of machinery and raw materials, and freedom of profit transfers abroad; also, in the case of foreign investment there is a guarantee of no nationalization.

FISCAL AND MONETARY POLICY

The war has also adversely affected the budget situation. During 1967–72, military expenditures accounted for approximately 60 per cent of total expenditures on average, but their share has been declining gradually since 1969. During the last few years, most civilian expenditures and nearly 60 per cent of total expenditures represented wages and salaries of government personnel; as a result, the share devoted to economic development was negligible. Domestic revenues accounted on the average for less than 60 per cent of total expenditures during 1967–72. Although large receipts of foreign aid counterpart funds covered a substantial part of the deficit, recourse to the National Bank was substantial. Government borrowing has been the main expansionary factor of money supply.

In an effort to improve the budgetary performance, the Government initiated an extensive tax reform in late 1972 aimed at (1) simplifying the tax system by unifying all taxes with similar characteristics; (2) minimizing the number of rates applied under each tax; and (3) basing most of the new taxes on an ad valorem basis. Among the main taxes introduced were a special consumption tax and a value-added tax. The latter, introduced in July 1973 at a rate of 10 per cent on most economic activities, was substantially modified in August 1973 when transactions directly involving the consumer were eliminated from the coverage. Efforts have also been made to improve tax administration, reduce tax evasion, and accelerate the payment of tax arrears. Nevertheless, the 1973 fiscal deficit amounted to 55 per cent of total public expenditures. After deduction of foreign aid, the remaining deficit represented nearly 30 per cent of the stock of total liquidity at the beginning of 1973.

In the 1974 budget plans both expenditures and revenues will increase by about 30 per cent over the 1973 levels. The two main features of planned public expenditures for 1974 are increased allocations for development and the continuing high military burden. The share of development expenditures is expected to rise from 8 per cent in 1973 to about 10 per cent in 1974, while that of military expenditure will continue to fall, to 45 per cent; in the course of the year, some 47,000 men out of the present 1.1 million will be released in the normal course of demobilization and a further 100,000 men will be demobilized when security permits.

In spite of the Government's large recourse to the banking sector, monetary expansion in 1972 and in the first ten months of 1973 was much smaller than in the previous two years, when it averaged 20 per cent a year. Money supply rose by 9 per cent in 1972 and by 13 per cent during January-October 1973. In 1972, the growth of money supply was restrained by a rapid increase in quasi-money holdings, which doubled in response to the sharp upward adjustment of interest rates in May 1972. As the pace of inflation accelerated in 1973, real interest rates became negative and the growth in quasi-money slowed down. The effects of the large increases in bank credit to both the Government and the private sector in 1973 were partly offset by a substantial decline in foreign exchange reserves. At present, there are practical difficulties in controlling the operations of the financial institutions through the existing instruments of credit control, as they are complicated and not always coordinated. An intensive review of the efficacy of the present instruments will be undertaken shortly as part of the technical assistance provided by the Fund.

BALANCE OF PAYMENTS AND INFLATION

With the intensification of the war from the mid-1960s, export receipts dropped sharply, mainly as a result of rapid declines in rubber exports and the prohibition of rice exports after 1964. By the early 1970s the value of exports amounted to 25 per cent of their level in the early 1960s and to less than 5 per cent of imports. During the period imports had increased substantially, amounting to about US$750 million in 1972. In order to finance the resulting huge trade deficits, Viet-Nam has relied heavily on external aid, almost all of which consisted of commodity aid from the United States (under the Commercial Import Program (CIP) and the P.L. 480 program) and the purchases of local currency by the growing U.S. military forces.

Since 1972, there have been some significant changes in the balance of payments. With the gradual withdrawal of U.S. troops, purchases of piastres by the United States have been declining rapidly from VN$403 million in 1971 to VN$100 million in 1973. Second, exports have expanded rapidly, from

US$15 million in 1971 to US$24 million in 1972 and US$56 million in 1973. The main exports were timber, fishery products, rubber, and scrap metals. However, their level in 1973 still accounted for only 7 per cent of total imports. Third, with imports continuing to increase, there was a pronounced fall in external reserves during the year, estimated at US$70 million. At the end of 1973, the level of reserves was about US$200 million, or three months of imports during that year. Even though aid levels are estimated to be maintained in 1974, the sharply higher import prices of petroleum products and continued large reliance on imports of essentials will no doubt put severe pressures on the balance of payments. The 1973 imports of petroleum products amounted to US$85 million or 12 per cent of total imports.

EXCHANGE SYSTEM REFORM

Over recent years, the operation of the trade and payments system has remained liberal. The authorities have also applied a managed flexible exchange rate policy, with the exchange rate being adjusted at frequent intervals. Despite substantial simplifications since 1971, the exchange system of Viet-Nam had remained complex. Until recently, there were two basic rates for the sale of foreign exchange: (1) the official rate which applied to all import payments financed with Viet-Nam's own foreign exchange resources, to most imports under the P.L. 480 program of the United States, and to all invisible and capital payments and transfers; and (2) the special rate which applied to imports financed by U.S. aid under the Commercial Import Program (CIP) and to P.L. 480 imports of raw cotton and wheat. The special exchange rate aimed at facilitating the absorption of imports under the tied commodity aid program (CAP) from the United States. With various exchange taxes applied to sales of exchange for import payments, there were at least eight effective selling exchange rates. Furthermore, almost all exports enjoyed general and special export subsidies paid in connection with the surrender of export proceeds which resulted in several additional effective selling exchange rates. The exchange system had become so complicated over time as to constitute a serious obstacle to effective balance of payments management. Accordingly, in early 1974 the Government undertook comprehensive exchange reform which was approved by the Executive Board of the Fund on January 23, 1974.

Under the reform, all forms of export subsidies constituting multiple currency practices were abolished. Secondly, all exchange taxes on import payments have been eliminated and replaced by ad valorem import surcharges, which are collected at the time of customs clearance of the imports in addition to the existing statutory tariffs. As a result, the total customs levies (consisting of the tariff and the import surcharge) amount to 100 per cent ad valorem on most of the import items. The preferential exchange rate for certain tied commodity aid imports from the United States (the special exchange rate) has been abolished and replaced by a system of subsidies outside the scope of the exchange system. A unitary rate of VN$560 per US$1 is applied to all exchange transactions without exception.

ECONOMIC OUTLOOK

The Vietnamese authorities are in the process of formulating rehabilitation and development plans for the years to come. For the short term, the main emphasis of policies is placed on (1) relief and resettlement of refugees, (2) repair of war damages and essential infrastructural construction, and (3) fostering agricultural production through provision of adequate inputs and credit facilities. The emphasis placed on agricultural development is of particular importance, as rapid increases in agricultural output will not only help to provide employment opportunities but also will reduce pressures on prices and on the balance of payments through lower food imports and increased exports.

In recent years unemployment had been limited due partly to military manpower requirements. Alternative employment opportunities are now needed for demobilized personnel, for some 500,000 refugees who are at present in temporary camps, as well as for the excess labor force previously employed in the service sector. In addition, about 200,000 young men enter the labor force each year.

The necessary transition of the economy to peacetime conditions and to a stepping up of development will rely on substantial economic aid from donor countries in the coming years. This is especially true for 1974, as the balance of payments is estimated to come under pressure because of continued substantial import needs, including the sharp increase in the import bill for petroleum products, and the still small export base. Up to now, more than 90 per cent of total foreign aid was provided by the United States. In 1974, however, the sources of aid will be broadened, with about 20 per cent of the aid coming from non-U.S. sources. The main donors other than the United States are expected to be France, Japan, and the Federal Republic of Germany, as well as the International Bank for Reconstruction and Development (IBRD) and the Asian Development Bank.

Although the economy of Viet-Nam is at present confronted with a number of difficult problems, there seems to be every reason to believe that prospects for developing a strong economy are good. Viet-Nam is endowed with rich natural resources. Substantial infrastructure built for military purposes is left to be utilized, and the population is hard-working, literate, and disciplined. There exists ample land to bring into cultivation, and potential agricultural production is enormous.

VIETNAM'S BALANCE OF PAYMENTS

[In millions of U.S. dollars]

	Annual average					
	1960-69	1965-69	1970	1971	1972	1977
I. Trade balance	−217	−623	−766	−788	−719	−739
Exports	68	35	13	15	24	56
Imports	−282	−658	−779	−803	−743	−795
II. Services, transfers, miscellaneous capital and net errors and omissions	8	311	224	304	145	133
III. Official aid (net)	198	344	506	487	559	536
IV. Total (I+II+III)	−8	32	−36	3	−15	−70
V. Allocation of SDR's			7	7	7	
Total (IV+V)	−8	32	−29	10	−8	−0

Data: Until 1972, IMF, "Balance of Payments Yearbook;" from 1973, data furnished by the Vietnamese authorities.

Mr. Speaker, in 1973, additional—and serious—problems were caused by the massive withdrawal of U.S. forces. This sudden development understandably generated considerable unemployment, reaching approximately 15 percent. Added to this was an inflation rate of some 68 percent and a major reduction in the proposed level of U.S. economic assistance.

Now, as 1974 begins, there is the worldwide problem of the oil price increases which not only add to defense costs, but also adversely affect agricultural development. As is the case in other underdeveloped countries, the key to agricultural production in Vietnam is fertilizer—and fertilizer production is based on oil. It is as simple as that.

Mr. Speaker, let me conclude these remarks by recognizing that present attitudes of some Members of Congress toward economic assistance to South Vietnam are strongly influenced by disillusionment with the past. There are those who feel that such expenditures represent an eternal, "bottomless pit," that an end is never in sight.

I understand these feelings. I am willing to admit that past mistakes have been made in our policy toward Southeast Asia. With the benefit of hindsight, I share Ambassador Martin's view that the direct takeover of all military operations by U.S. forces was an error of judgment. I bear some responsibility for that decision, on the basis of my voting record.

The point is, however, that the tremendous sacrifices of U.S. lives and treasure have been made—for better or for worse. We are now faced with an entirely new situation: it is a different ball game. The game has been substantially won, but could just as easily be lost in this final inning, if we do not follow through and do what is necessary.

What is necessary is an adequate, short-term infusion of economic assistance to help the people of South Vietnam pass through this present period of transition toward self-sufficiency. The natural resources are there, incidentally, in greater abundance than those which existed for Korea and Taiwan—before the economic "takeoff" of these countries began. As the IMF observes:

> Viet-Nam is endowed with rich natural resources. Substantial infrastructure built for military purposes is left to be utilized, and the population is hard-working, literate, and disciplined. There exists ample land to bring into cultivation, and potential agricultural production is enormous.

Let me also point out that a maximum $1 billion investment in the Vietnamese economy for 1 year—and Ambassador Martin is recommending a level of $800

million for fiscal year 1975—comes to less than was spent in less than a 2-week period in the 1967–68 era. Economic and military assistance to Indochina at that time amounted to approximately $30 billion annually, excluding MAP funds for Cambodia. After fiscal year 1975, Ambassador Martin projects a 50-percent cut in this figure and a reduction to practically zero by fiscal year 1977. As President Thieu pointed out to me in our discussion, it is better to give a sick man an adequate dosage of medicine immediately and then stop—than inadequate dribbles over a period of time—which is what we have been doing recently.

Mr. Speaker, I hope that in the weeks ahead we may have an informed and constructive debate on this subject. I believe Vietnam merits a high priority on our agenda. I urge my colleagues to give this matter their serious attention and open minded consideration. I should add that I am encouraged to find that the distinguished chairman of the Appropriations Subcommittee on Foreign Operations (Mr. PASSMAN) shares some of my views on the important investment we have already made in this area of the world, and the necessity for taking reasonable measures to preserve it. I pledge to him, and to others who may share my conclusions, my steadfast support.

There is, in fact, some light at the end of the tunnel, Mr. Speaker, if we do not abruptly and unwisely turn off the switch.

TRIBUTE TO AUTHOR HOPE CHAMBERLIN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I was extremely saddened to learn of the recent death of Hope Chamberlin, an excellent journalist and author, as well as a tremendous credit to the Republican Party.

As one of the 85 subjects of her popular book, "A Minority of Members—Women in the U.S. Congress," published in 1973, I became acquainted with Hope Chamberlin. For years, Miss Chamberlin spent endless hours investigating and researching the details of the careers of the women who served in Congress since 1917.

Miss Chamberlin sincerely believed that Americans know almost nothing about the history of the 75 women who have served in the House and the 11 women who have served in the Senate. She wrote "A Minority of Members" to set the record straight by shattering the myths which have depicted women in Congress as ineffective legislators interested in only social issues.

Upon completion of this comprehensive work, she observed that the most revealing thing she discovered about Congresswomen is "how conscientious they are." She pointed out that of the 85 women who have served as Senators and Representatives, not one of them has ever been involved in any illegal activity.

She once told a newspaper reporter that no Watergate could have happened if any of the women mentioned in her book had been in positions of real power in the administration.

If Hope Chamberlin were still alive, she would encourage women to run for public office because she sincerely believes that women have integrity and should be in the House and Senate. I am certain that her voice will live on through "A Minority of Members" to inspire women to enter public life.

CONGRESSMAN LENT DISCLOSES 1972 FINANCIAL STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LENT) is recognized for 5 minutes.

Mr. LENT. Mr. Speaker, because of the concern with possible conflicts of interest and the financial status of all public officials expressed by many citizens, I am pleased to disclose at this time pertinent information regarding my financial status for the year 1972. This financial disclosure is patterned after the recommendations of the ad hoc committee on financial disclosure of the New York State delegation to Congress, which consists of 39 Members of the House, made March 12, 1974.

A. Sources of all noncongressional income—law firm of Hill, Lent, and Troescher, Esqs., Lynbrook, N.Y. I received income from the practice of law, rent, speaking honorariums, bank interest and dividends. I do not practice law in the Federal courts or before Federal agencies.

B. Unsecured indebtedness in excess of $1,000—None.

C. The sources of all reimbursements for expenditures in excess of $300 per item—I had congressional expenses not compensated for by the Federal Government of $17,949. Of this sum, $9,543 was paid out of my personal funds; $6,406 was paid out of the Fourth Congressional District Congressional Club; [1] and $2,000 was paid by the National Republican Congressional Committee.

I had additional costs-of-living expenses directly related to my job as Congressman, including the maintenance of living quarters in Washington, D.C., travel, and so forth, estimated at $5,800, for which I was not reimbursed. I was allowed the statutory maximum deduction of $3,000 for these living expenses on my 1972 income tax return—IRC section 162(a). These expenses were entirely paid from personal funds.

D. The identity of all stocks, bonds, and other securities owned outright or beneficially—I owned shares in three mutual funds:

Scudder, Stevens & Clark Common Stock Fund.

Scudder, Stevens & Clark Special Fund.

[1] The Congressional Club consists of individuals who pay annual dues of $100 each to maintain a fund used exclusively to help me defray the cost of newsletters, reports, and questionnaires sent to constituents, and to pay travel, telephone, dues, office, community relations, and other expenses directly related to my job as Congressman.

Growth Industry Shares.

I owned shares in two business corporations listed in the New York Times:

Viewlex Corp.—American Stock Exchange.

SMC Industries—OTC.

I own no tax-free bonds or other securities.

E Business entities—including partnerships, corporations, trusts, and sole proprietorships—professional organizations—of a noneleemosynary nature—and foundations in which I am a director, officer, partner, or serve in an advisory or managerial capacity—I am a partner in the law firm of Hill, Lent, and Troescher, Esqs., Lynbrook, N.Y.

F. I paid $14,448 in Federal and New York State income taxes for the year 1972. I have filed a report of my earnings and sources of earnings with the Clerk of the House pursuant to rule XLIV of the House of Representatives every year I have been in Congress.

FINANCIAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, it has been my practice since coming to Congress to insert in the CONGRESSIONAL RECORD a personal financial statement.

Set forth here is my financial statement as of March 15:

Financial statement

SCHEDULE A—CASH

Congressional Employees Credit Union (savings account)	$314.56
John Hanson Savings & Loan (savings account)	778.55
Central National Bank (savings account)	360.66
Sergeant at Arms (checking account)	797.78
Cash on hand	235.00
Accounts receivable	none
Total	2,486.55

SCHEDULE B—INVESTMENTS

Central National Bank of Maryland Stock	6,960.00
John Hanson Savings & Loan Stock	2,744.00
Total	9,704.00

SCHEDULE C—REAL ESTATE

Townhouse, Largo, Md	39,990.00
House, Landover, Md. (residence)	60,000.00
91.4 acres, Allegany County, Md	28,000.00
One-half interest, 95.343 acres Charles Co., Md. (unimproved land)	$21,500.00
Total	149,490.00

SCHEDULE D—MORTGAGES

Townhouse, Largo, Md	30,925.78
House, Landover, Md	35,245.95
91.4 acres, Allegany County Md.	1,981.00
One-half interest, 95.343 acres, Charles Co., Md	9,250.00
Total	77,402.73

FINANCIAL STATEMENT OF LAWRENCE J. HOGAN, MARCH 15, 1974

Assets:	
Cash (see schedule A)	$2,486.55

Investments (see schedule B)	9,704.00
Real estate (see schedule C)	149,490.00
Automobile: 1972 Buick	3,425.00
Household furnishings	8,000.00
Total assets	173,105.55
Liabilities:	
Accounts payable (miscellaneous)	1,004.90
Loan (National Bank of Washington)	300.00
Mortgages (see schedule D)	77,402.73
Total liabilities	78,707.63
Net worth	94,397.92

MR. HARRY DICKSTEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 15 minutes.

Mr. McDADE. Mr. Speaker, it was my great privilege to be present on Sunday evening at the annual Americanism awards dinner of Amos Lodge of B'nai B'rith in the city of Scranton, and to witness the bestowal of that award on Mr. Harry Dickstein of that city. No man could be more deserving of that award than Harry. For nearly 50 years, he gave himself tirelessly to the betterment of his community and the people who live in it, and when the selection committee sat down to make the decision on the recipient for this year, they could hardly have missed so outstanding a man as Harry.

This was the 22d consecutive year that Amos lodge has given this coveted award. The past recipients, starting with Worthington Scranton, have all been individuals who have been a part of all that is fine and decent in our community. The addition of the name of Harry Dickstein follows that proud tradition. His contribution to the overall betterment of his fellow citizens have spanned nearly half a century.

He was active in the Scranton/Lackawanna Jewish Council, and in 1950 served as its president. He was active in the first central building fund drive which eventually led to the construction of the building which is today the Scranton Jewish Community Center, and in 1955 was awarded the Jewish Community Center Fellowship Award. He became involved with the Scranton Industrial Corp., which brought many new companies to this area, and jobs to our people.

He was closely associated with the American Red Cross, and headed the drive for flood relief when Hurricane Agnes struck in 1972; and when the Mississippi River flooded the valley in 1963, Harry was named chairman of the Red Cross emergency relief fund.

He was chairman of the executive committee, as well as board member and president of the old West Side Hospital, and was named a trustee of Community Medical Center, the successor to the West Side Hospital. He has served as president of the Scranton Chamber of Commerce, and president of the Scranton Campus of Pennsylvania State University. He was active in the campaigns for Lackawanna United Fund, chairman of Temple Israel, director and vice president of the Jewish Home of Northeastern Pennsylvania, director and vice president of the advisory board of Blue Cross, a director of the Boys Club of Scranton, a director of the Jewish Community Center, a director of the Legal Aid Society, and of the Visiting Nurses Association.

In a citation accompanying the award, it was said that—

The man we honor here tonight is more than merely the total of a lifetime of achievement; his life has been an idea, an example for others to follow, a guiding spirit that is needed not only in our community, but in our country.

Harry Dickstein is indeed the complete man, the complete American. When men and women from other nations look to America to see that on these shores there can be found the dream they hear of so much, they need only to look to Harry Dickstein, who came among us in 1910 from Russia, and walked the long and remarkable path to the distinction he achieved on Sunday night.

What he touched he improved; what he improved he shared with others; and what he shared enriched all.

I should like also to pay particular tribute to the distinguished group which came to witness the award, and especially to Rabbi Dr. Simon H. Shoop, who gave both the invocation and the benediction; to Marvin Pollack, who welcomed us; to Harvey Gelb, the delightful toastmaster; to the Honorable Eugene Peters, who gave the welcome of the city of Scranton to all; to Milton Priedman, president, Amos Lodge, to Assistant Secretary of the Navy Joseph T. McCullen Jr., principal speaker of the evening whose well chosen remarks were so warmly received; to Robert Dawson who made the presentation of the Americanism award to our honored guest.

And above all I would pay my own personal tribute to the woman who sacrificed so much in giving her husband to the community when the community needed him so much, Harry's beloved wife, Ruth.

CAMPAIGN FUNDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. RUPPE) is recognized for 5 minutes.

Mr. RUPPE. Mr. Speaker, today I rise to introduce legislation which, in all honesty, I wish was not necessary. In 1971, the Congress passed the Federal Election Campaign Act which deals with donations and expenditures of campaign funds. However, in the following year we were witness to such a debacle concerning campaign funding that it seems obvious that we did not go far enough with that enactment; loopholes remain so that the spirit of the act may be avoided and the penalities imposed are not stringent enough to deter illegal action. We cannot legislate campaign morality or ethics, so I feel we must give high priority to amending the 1971 statute, to strengthen the law and, in doing so we hopefully will begin a process which will return a good name to political campaigning.

The bill is basically divided into two parts. The first establishes in the executive branch a Federal Elections Commission whose function will be to monitor campaign fundraising and expenditures. It would be composed of six members, two appointed each by the Speaker of the House, the President pro tempore of the Senate, and the President. No more than three may be members of the same political party. The Commission would have the capability to conduct full scale investigations and audits of campaign financing, and this would include the power of subpena enforceable in the Federal courts.

Also the Commission would have the prerogative to make legislative recommendations to the Congress.

The second section of the bill deals with campaign committees and limitations on contributions. Every candidate for a Federal office must designate one political committee as his or her campaign committee. This committee would be required to file periodic reports with the Federal Elections Commission. All contributions to the campaign would have to be made directly to this designated committee by all persons. Pooled contributions through business or labor associations or similar organizations are not permitted. Also contributions of transportation, vehicles, room and board, and other in-kind services must be listed as cash contributions.

Also as a part of this second section, limits are put on the amount that one may contribute to a campaign. No person may give more than $2,500 to a congressional candidate running in a primary, primary runoff, or general election. Therefore, in most cases the candidate could receive at most $5,000 from any one person, and in the rare case where a primary runoff is needed, the maximum would be $7,500. In the case of a Presidential race the maximum legal contribution is $7,500 for a primary or general election. These limits I believe take a realistic approach to the situation. Campaigns are expensive, so we must devise a system whereby money can be raised, but not in such a way that the candidate is unduly obligated to the large contributor. This, I believe, is accomplished, by my legislation.

Perhaps the most novel aspect of this legislation is the "Penalties" section. To begin with, the bill provides for damages in the amount of three times the amount by which the contribution exceeds the applicable limitation. Second, not only is the contributor liable, as is the normal case, but my bill extends liability to the candidates as well who receives a contribution with the knowledge that it violates the law. No longer would the candidate be able to say that he did not concern himself with the problems of campaign financing, that that part of the race was left to trusted subordinates. From now on, with the enactment of this legislation, the candidate will be entrusted with the responsibility of knowing everything about the campaign. I cannot help but believe that if the candidate knows of his possible liability, there will be a minimal amount of violations.

I do not for a minute think that this legislation will clear up all the prob-

lems surrounding our elections. There are too many of them, and they are too diverse in nature, to be dealt with effectively in one bill. But I do know that we must make a start—we must make a start to bring honor and respectability back to our electoral process and in so doing, we will begin to bring honor and respectability back to government itself.

AMENDMENT TO H.R. 69

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON. Mr. Speaker, in accordance with House Resolution 963 providing for the consideration of H.R. 69, I hereby give notice of my intention to offer the following amendment to H.R. 69:

AMENDMENT TO H.R. 69, AS REPORTED OFFERED BY MR. BURTON

Page 28, line 15, strike out "1" and insert in lieu thereof "2".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following: "The Commissioner shall allot (A) no less than 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining per centum of such amount so appropriated to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2). In making the allotments under the preceding sentence for any fiscal year, the Commissioner shall take into account any increase in the proportion of the number of children to be served by the allotment under clause (A) relative to the total number of children to be served by the allotments under clauses (A) and (B)."

SOUTH AFRICAN VISIT MARKS HIGHEST LEVEL CONTACT WITH UNITED STATES IN THREE DECADES

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, I would like to insert for the thoughtful attention of my colleagues an item from the African News, a news service by the Southern African Committee in Durham, N.C. The article is entitled "South African Visit Marks Highest Level Contact With United States in Three Decades" and is a comment on the recent visit of the South African Minister of Information to the United States. Mr. Mulder is not only the Minister of Information for South Africa, but I am advised that he is one of three people serving on the State Security Council which is in fact over the infamous Bureau of State Security—BOSS—as well as over the Ministry of Justice and the Ministry of Defense.

The text of the article is as follows:

SOUTH AFRICAN VISIT MARKS HIGHEST LEVEL CONTACT WITH UNITED STATES IN THREE DECADES

(An) cloaked in secrecy, the South African Minister of Information has just completed a two-week visit to the United States to put the case of South Africa's white government before American policy makers. South Africa is calling it the most comprehensive and highest level talks between Americans and South Africans in three decades.

The cabinet minister, Dr. Connie Mulder, left South Africa quietly, and only after he saw American Vice President Gerald Ford on Tuesday last (Jan. 22) week did the South Africans lift their official silence. Apparently, they feared that publicity might arouse public opinion making it difficult for Ford and other politicians to meet Mulder.

Radio South Africa, the official government broadcaster, is terming the trip "highly significant", and says it symbolizes (quote) "the refreshing new outlook foreign policy which the present U.S. administration has adopted." The radio reports that the talk with Ford, which took place in a "friendly atmosphere", discussed how South Africa and the United States can be of mutual assistance to each other in such matters as the energy crisis.

Mulder, who is often mentioned as a possible future prime minister of South Africa, met with top leaders during his time in the United States. Among the congressional officials he saw were Senate Minority Leader Hugh Scott, House Majority Leader Tip O'Neil, Chairman Thomas Morgan of the House Foreign Affairs Committee, and Senate Minority Whip Robert Griffin. In addition, the minister talked with two prominent conservative Republicans—Governor Ronald Reagan of California and Senator John Tower of Texas.

Peet is Deputy Assistant Secretary in the office of the Assistant Secretary of Defense for International Security Affairs (ISA)—sometimes referred to as the "Pentagon's State Department." As the post of Assistant Secretary is currently vacant, Peet is the ISA's senior official. Among the ISA's responsibilities are the development and co-ordination of Defense Department policies in international politico/military and foreign economic affairs. Indian Ocean strategy is planned and developed in the office.

The fact that the ambitious and influential South African Information Minister gained the ear of the senior ISA official takes on special significance in light of growing U.S. preoccupation with the Indian Ocean area. Historically, the Ocean had figured little in U.S. strategic planning—"near the bottom of the list of American priorities" according to a Defense Department spokesman in 1970.

But in March, 1973 the U.S. opened a communications center on the tiny British-controlled island of Diego Garcia in the middle of the Ocean. Seven months later the U.S. sent an aircraft carrier and five destroyers into the area from their stations in the Western Pacific. And in January of this year, the Pentagon announced plans for constructing a $20 million air and naval support facility on Diego Carcia.

This heightened interest in Indian Ocean affairs will certainly bring South Africa more fully into the thinking of American strategists like Admiral Peet. A 1970 School of Naval Warfare research team—including 5 Navy officers and an Air Force Colonel—reached a conclusion which may soon closely resemble U.S. policy. Proposing a multinational naval presence in the area the group suggested that "the Navy of the Republic of South Africa should be invited to participate even though political differences are to be anticipated, (since) (t)his state possessess the only strong maritime force in Southern Africa."

Co-operation on some levels is already apparent. The South African Navy recently opened a $21 million communications complex—buried in a mountain near Capetown and designed to withstand nuclear or bacteriological warfare. The facility is reportedly capable of accurately charting ship movements as far away as the Antarctic, Latin America, and the Bay of Bengal. An article in the authoritative *Armed Forces Journal International* says the silvermine facility "can flash these ship plottings to war rooms in the U.S. and U.K. in seconds", and that Western powers have received from the South Africans useful data on the activities of Soviet and Chinese naval vessels in the Indian Ocean.

If the International Security Affairs staff endorse a stronger U.S. policy tilt towards the white regime, ISA will soon be in a strong position to influence policy-making in that direction. According to the *New York Time's* Pentagon reporter, Leslie Gelb, Defense Secretary Schlesinger plans "to restore the Office of International Security Affairs to the influential role it played in the 60's"—after a five-year period of reduced status.

Gelb reported on February 9th that Schlesinger has decided to fill the vacant post of Assistant Secretary for International Security Affairs, by appointing Paul Nitze, a hawkish Democrat who supports a strong Pentagon role in foreign policy formulation.

ISA is responsible for negotiating and monitoring agreements with foreign countries and international organizations on military facilities, operating rights, and related matters. It also occupies a central position in the national security apparatus, since it screens all formal incoming and outgoing Pentagon communications.

The U.S. approach to the Indian Ocean—which is ISA's concern—has brought sharp protests from several nations in the Indian Ocean region who want to avoid big-power confrontation in that area. It also goes against the expressed will of the United Nations General Assembly, which in 1971, and again in 1972 and 1973, overwhelmingly passed resolutions designating the Ocean a "zone of peace."

Besides co-ordinating defense strategy, Peet has another task. As head of the Defense Secretary Assistance Agency (DSAA), he co-ordinates military aid, including sales of military hardware and excess equipment. DSAA also serves as a liaison between U.S. industry and foreign buyers of military equipment and services.

Since 1963 the United States has declared itself in compliance with United Nations resolutions against arms sales to South Africa. However, several millions of dollars of communications equipment is exported to South Africa each year, and since 1970 the Nixon administration has allowed the aviation industry to sell South Africa aircraft it declared "non-military." Mulder's talk with Peet may result in increased shipments under the guise of non-military equipment.

SOUTH AFRICAN MINISTER OF INTERIOR MULDER PAYS SECRET VISIT TO WOO U.S. OFFICIALS AND OPINION MAKERS

Dr. Connie Mulder, South African Minister of the Interior, has just completed a "private" two-week visit to the United States to win new friends for South Africa and to promote his own political future as heir apparent to Prime Minister Vorster.

The visit is the brainchild of Mulder's Secretary of Information, Dr. Eschel Rhoodie, who advocates selling to middle Americans rather than to converted rightwingers by public officials who are articulate and personable.

Dr. Mulder talked to editorial writers Sulzberger and Hovey at the *New York Times* and to several *Los Angeles Times* editors in the first week of his visit. An evening spent with the Pasadena Foreign Relations Council was enlivened by the presence of a half-dozen moderate blacks. Through a mutual friend, Mulder arranged a quiet get-together with the black mayor of Los Angeles, Tom Bradley.

Mulder did not neglect to visit possible successors to President Nixon. He saw Governor Reagan in California and then moved on to Washington for his final week and an interview with Vice President Jerry Ford. Ford's press secretary confirmed that Ford had met with Mulder for 25 minutes on Tuesday, the 22d, and that they had talked about the energy crisis.

Meanwhile, State Department spokesmen were expressing discomfort and embarrassment because the South African had made an "end run" around Secretary Kissinger and depreciated any political gains touted by the South African press. "Dr. Kissinger doesn't like end runs," one State Department source said. However, State embarrassment or anger, if any, did not prevent Deputy Assistant Secretary of State for African Affairs, "Tony" Ross, from attending a dinner at the South African Embassy in Mulder's honor.

The South African information service pulled another coup by getting affable "Doc" Morgan, chairman of the House Committee on Foreign Affairs, to host a reception at the International Club to which Charles Diggs, chairman of the Committee's subcommittee on Africa, was conspicuously uninvited. Mulder also briefed Democratic majority leader, Thomas ("Tip") O'Neill, a prominent moderate liberal. On the Senate side, Mulder cultivated the Republican leadership: Hugh Scott, minority leader, and Robert Griffin, minority whip, both liberals. He also saw conservative Senator John Tower.

Mulder's visit is the first installment in the South African plan to cultivate new friends rather than to preach to the converted. North American information officers are to be doubled. Washington will be beefed up to 3 officers, San Francisco and Ottawa will have 2 instead of 1 and a new 2 man office will be opened in Los Angeles.

Meanwhile South African press stories written by Rhoodie's service are ballyhooing the visit as "highly significant" and that it symbolizes the "refreshing new outlook in Foreign Policy which the present (Nixon) administration has adopted."

I would also like to insert for the thoughtful consideration of my colleagues a comment from the bulletin "Congress and Africa: 1974" by the Mennonite Central Committee. The text is as follows:

HIGH LEVEL SOUTH AFRICAN OFFICIALS VISITS UNITED STATES

MULDER: TOP TALKS IN UNITED STATES

In bold type, this headline appeared on the front page of the January 26, 1974 issue of the *Johannesburg Star*. At the same time, the U.S. press was silent about the visit of this high ranking cabinet minister in the South African government. Cloaked in secrecy, Dr. Cornelius Mulder, South Africa's Minister of Information, met from January 13–16 with American policymakers in an attempt to rally support for South Africa's white government. The South African press called the discussions the most comprehensive and highest level talks between Americans and South Africans in three decades. Radio South Africa, the official government broadcaster, termed the trip "highly significant" and indicative of the "refreshing new outlook on foreign policy which the present U.S. administration has adopted."

Dr. Mulder, who is mentioned by some as the future prime minister of South Africa, met with Vice President Gerald Ford and several high ranking members of Congress including Rep. Thomas Morgan, Chairman of the House Foreign Affairs Committee. Although Mulder did not notify the State Department of his visit, he called on Vice Admiral Ray Peet, senior official in the office for International Security Affairs (ISA). ISA negotiates the sale of new and excess military equipment to foreign governments, develops and coordinates defense strategy, and screens all formal incoming and outgoing Pentagon communications.

Mulder's talks with Peet may indicate an eroding arms embargo. Since 1963, the United States has declared itself in compliance with U.N. resolutions against arms sales to South Africa. However, each year the U.S. exports several million dollars of communications equipment to the white regime. For four years U.S. aviation manufacturers have been allowed to sell "non-military" aircraft to South Africa.

The Peet-Mulder dialogue may also signal a future U.S.-South Africa alliance in the Indian Ocean. For some time, South Africa has expressed concern about what it calls the "communist penetration" of the Indian Ocean. For the past three years, the United Nations General Assembly has overwhelmingly passed resolutions designating the Indian Ocean as a "zone of peace". If Congress approves a $20 million request for the construction of an air and naval base on Diego Garcia, a British Island 1,000 miles off the southern tip of India, this could soon militarize the zone.

The Pentagon has justified the request by claiming that the base would deter a Soviet build-up in the area. Senator Pell (R.I.) has introduced amendment number 973 to Senate bill S. 2999 that would deny appropriations for the establishment of a base on Diego Garcia. In addressing the Senate, Pell asked, "Will not this Pavlovian U.S. response stimulate the very Soviet threat we fear and precipitate an escalation in our costly arms race which we both can ill afford?"

LABOR—FAIR WEATHER FRIEND—X

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, not long ago, the AFL–CIO sponsored Labor Council for Latin American Advancement attacked me for "union-busting" when in fact nothing could be further from the truth—and they knew it.

The AFL–CIO knows that I have always supported organized labor, in good times and bad, through thick and thin, because I believe in the fundamental right of workers to organize and bargain collectively. But for several years I have had to watch a dreary parade of people subsidized by the AFL–CIO criticize me, attempt to embarrass me, and create political problems for me. This last event is the last insult that I intend to suffer in silence. If the AFL–CIO subsidizes people who are against me, I am going to let the world know about it.

I am not attacking labor. The panjandrums in the AFL–CIO have known of my complaints for years, and have done nothing. After this last assault from the level of Mr. Meany's own penthouse, I tried to contact those responsible—not one time, but twice, and got no answer of any kind. I have had enough.

One of those in the LCLAA, the Labor Council for Latin-American Advancement, is my old friend Paul Montemayor. He is one of their founding members, and a board member. As an old friend, I would have expected him to express some concern about the charges that had been made against me, but he did not. I might have expected him to ask for the facts, but he did not. And he knows me well enough to know that I am not anti-labor, but he has made no effort to defend me against people who he knows perfectly well are not interested in whether I am for or against labor, because they are just plain against me.

But Paul is old enough to remember when unionism had a very tough row to hoe in Texas.

I remember back in the late 1950's when Paul was trying to organize a couple of ironworks in San Antonio. I was the only politician who would even talk to a labor man then. Everybody else was either against them or antiunion. Nobody in Texas had at that time ever run as a man in favor of labor.

So in this hostile climate Paul had a tough time. The San Antonio workers he was trying to organize were afraid to even meet to hear the union message, let alone sign preference cards. They feared for their jobs, and some of them even for their safety.

So the campaign was faltering and failing, and Paul called me in desperation. The workers would not come to meetings, because they were afraid and did not trust the organizers. Would I come? If I would come, the people would know that it was all right; they could trust me. So I listened to Paul's plea. I agreed to help.

I went into that meeting, and it was oppressive; you could feel and smell the fear. But I went in proud and head high, and told the people: "I am not here to tell you whether or not to join this union. I want you to know that you have a right to be here. You have a right to hear this message, and you have a right to organize and join a union."

That was a dangerous thing for me to do, in a time and place where unions were anathema—and where to this day, organized labor is only a pitiful percentage of the working population. But I believe in the right of organization, and believed in it enough to stand up for it.

Paul was grateful then, because it was help like that that enabled him to do his job and organize people.

But today that is not enough. It is not enough for his LCLAA friends to know that labor has a friend in me; they want me to be more than a friend. But I am not controlled by anybody, any more today than I was back then, when my independence made it possible for me to do what no one else would.

You would think that Paul would know me well, after all these years. And you would think that even if he does not always agree with me—which I do not expect—he would at least think enough of that past friendship and those past favors to expect and demand that his pals accord me at least honest treatment, at least decent treatment.

But I suppose not. I suppose that Paul either does not remember, or maybe he does not care. I have been a good friend to him and to labor. I think that friendship has been abused, and I'm tired of it. But because I believe in labor, this is painful to say. I doubt that I would have ever said a public word, if the AFL–CIO had not made a public attack on me. But

that's been done, and I am not about to remain silent in the face of that.

CONYERS INTRODUCES GRAND JURY BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, today I am introducing a bill that would have the effect of returning the Federal grand jury system to its traditional role as guardian of American liberties. Though other legislation in this area was introduced during the 1st session of the 93d Congress, this legislation goes considerably further in addressing the problems in a long neglected and critically important realm of our criminal justice system.

The roots of the grand jury can be traced back as far as 12th century England. Historically, the grand jury has had two distinct functions. First, it was to evaluate the evidence gathered by the prosecutor, to determine whether the state was justified in bringing a person to trial, with the humiliation and the expense that entails. Second, it was to investigate, independent of the king's prosecutor, offenses committed by or aided by public officeholders. If the state would not investigate itself, a body of citizens would uncover and prosecute wrongdoers.

As might be expected of an institution 800 years old, the grand jury has had an ambivalent history. At times, the grand jury has acted as a "people's panel," shielding the innocent from unjust prosecution, or investigating government authorities misusing their position for private gain or public harm. Occasionally, particularly in the North American colonies prior to the Revolution, grand juries refused to indict colonists accused of violating British laws, like the Stamp Act or seditious libel laws, when the jurors believed the laws to be unjust.

But at other times, the grand jury has been a compliant instrument of the prosecutor. In recent history, this aspect has been dominant. In the words of former Senator Charles Goodell, writing in the May 1973 issue of Harper's magazine:

> Over the years, the complexion of grand juries has changed, their anti-authoritarian tradition has become diluted, and they have become subservient to the interests of the prosecuting authority over which they are assigned to watch.

By 1791, when the Bill of Rights was adopted, the grand jury was an important enough institution to be designated as the major barrier to unchecked prosecutorial authority. The fifth amendment provides that "no person shall be held to answer for a capital or otherwise infamous crime" unless a grand jury votes in favor of bringing the charge. The language of the amendment is the same today as it was in 1791; it has been interpreted by courts to mean that no person may be prosecuted in the Federal courts on a felony charge without a grand jury indictment. The Supreme Court has, however, permitted the States to initiate criminal proceedings without a grand jury indictment. In most States, a charge made by a district attorney, followed by a preliminary hearing before a magistrate, is used more often than grand jury indictment.

The grand jury plays an important role in the day-to-day operation of the Federal criminal justice system. Every Federal prosecution, for violation of Selective Service laws, antitrust laws, counterfeiting, smuggling, bank robbery, tax fraud, and a variety of other crimes, begins with a grand jury indictment.

In normal operation, the grand jury in the Federal system functions with little conflict and attracts little attention. At least one grand jury is in operation in every Federal district at all times. The 23 members of the jury normally are chosen at random from the voter registration lists of the counties within the district. A grand jury normally meets once a week or less often, for several hours at each meeting. Its work is directed by one or more assistant U.S. attorneys. At each session, the grand jury considers the evidence gathered by Government investigative agencies in numerous cases. Typically, the U.S. attorney calls into the grand jury room one witness at a time—an agent of the Federal Bureau of Investigation, the Customs Service, the Internal Revenue Service, or any one of a number of other Federal or local investigative agencies. Sometimes, a victim of the crime is called as a witness.

In response to the questions asked by the U.S. attorney, the witness, if an investigative agent, will describe the findings of his agency in the case in question. The U.S. attorney or the witness may introduce documentary evidence. After every witness has been questioned about a case, the U.S. attorney and the last witness leave the grand jury room. The grand jury, with no other people present, votes on whether to indict anybody for committing the crime(s) involved. The grand jury, which until that point has played no role in questioning or in shaping the investigation, almost always votes in favor of indictment.

The ABA's "Standards Relating to the Prosecution Function," Approved Draft, 1971, caution that—

> Where the prosecutor is authorized to act as legal adviser to the grand jury he may appropriately explain the law and express his opinion on the legal significance of the evidence but he should give due deference to its status as an independent legal body; The prosecutor should not make statements or arguments in an effort to influence grand jury action in a manner which would be impermissible at trial before a petit jury. (Approved Draft, 1971, p. 87).

Nevertheless, as Judge William Campbell of the Federal bench in Chicago wrote recently:

> Any experienced prosecutor will admit that he can indict anybody at any time for almost anything before any grand jury.

For several years, beginning in 1970, the Justice Department, and particularly its Internal Security Division, convened a series of special grand juries and used them in a way rarely seen before. Instead of calling as witnesses Government investigators or victims, the Government subpenaed as witnesses a wide variety of Americans who were neither victims nor Government employees. Many of them were associated with the antiwar movement, although some had only incidental ties with antiwar activists. Scores of witnesses were forced to choose between testifying about their friends, relatives, and political associates, or going to jail for contempt of court if they refused to answer the prosecutor's questions in the grand jury room.

The following is an extreme example of this practice:

> I want you to tell the grand jury what period of time during the years 1969 and 1970 you resided at 2201 Ocean Front Walk, Venice (Los Angeles), who resided there at the time you lived there, identifying all persons you have seen in or about the premises at that address, and tell the grand jury all of the conversations that were held by you or others in your presence during the time that you were at that address.—Question asked by Guy Goodwin of the Internal Security Division of the Justice Department, of a witness subpoenaed to appear before a federal grand jury in Tucson, Ariz., Fall, 1970.

Witnesses were jailed for their refusal to answer that and comparable questions. Dozens of people were jailed for refusing to testify. Others, unwilling to be jailed for a principle when they knew nothing to incriminate anybody, were forced to tell the Government about the private lives of their friends and relatives.

Probably because the grand jury has a long history as an institution independent of the prosecutor and other arms of the Government, Federal law says almost nothing about the internal operation of the grand jury. The codes are nearly silent on the relationship between the grand jury and the prosecutor. Courts also act as though the grand jury were independent of the prosecutor and need not be restrained by the limitations which the Bill of Rights places on the actions of the Government. Ironically, in the October 1973 decision upholding the subpena of the Watergate tapes, the court of appeals noted:

> If the grand jury were a legal appendage of the executive it could hardly serve its historic function as a shield for the innocent and a sword against corruption in high places.

In the absence of Federal law on the subject, prosecutors have taken control of the decisionmaking process that is, in theory, the province of the grand jury. The prosecutor decides who to subpena, what questions to ask, the general nature of the investigation, and the question of immunity grants, explained below. One result is that, in the last 3 years particularly, prosecutors have exploited this freedom from constitutional restraints in a way that represents a serious misuse of the power of the grand jury. Prosecutors have been able to force witnesses to answer questions before a grand jury which they would not have to answer if asked in the prosecutor's office, or in a police precinct. The question from Tucson cited above is an example.

Traditional safeguards have been eroded further. The Supreme Court in the recent Calandra decision ruled that illegally obtained evidence is admissible in grand jury proceedings.

The proposals in the legislation I am introducing are based on the belief that although the grand jury has not played

an active role in the Federal legal system in recent years, it is better to strengthen the institution than to abandon it or curtail its role. There are two reasons. The place of the grand jury in the Federal court system is defined unequivocally by the fifth amendment. Elimination of the grand jury, or curtailment of its role, would require a constitutional amendment. Neither the fifth amendment nor any of the other amendments of the Bill of Rights has been changed by as much as a word since adoption of the 10 in 1791. I believe it would be a mistake to amend the Bill of Rights, particularly in a way which would remove restraints on the Federal Government which have been in effect 182 years.

Second, there are only two institutions in our judicial system in which decision-making authority is given to people independent of the Government. The trial jury is one; the grand jury is the other. I believe that it would be a mistake to eliminate the grand jury, or to minimize its role at a time when one widely recognized problem of American democracy is the increasing disaffection of American citizens with our political and legal institutions.

The bill is designed to prevent a recurrence of the pattern of grand jury misuse of recent years. The tool which has been crucial to prosecutors in this misuse of the grand jury's subpena power has been the ability of the prosecutors to obtain court orders of immunity, giving a witness limited immunity from prosecution, but ordering him to testify without regard to his fifth amendment privilege. Without an immunity order, the fifth amendment confers on every witness the privilege of refusing to testify if there is any possibility that his testimony might tend to incriminate him.

The legislation would make two changes in immunity procedures. A witness could be given immunity, and a corresponding order to testify, only if he agrees to this exchange. And, the prosecutor could not decide on this exchange on his own; the legislation would require the grand jury to vote on giving an immunity grant to a witness, by a majority vote of its 23 members. A judge might then sign an immunity order, once the grand jury, the prosecutor and the witness all agree to the procedure.

The bill would also require a favorable vote by a grand jury majority on whether or not to subpena a person; and on whether or not to seek a court finding of contempt if a witness refuses to testify.

Also in the area of immunity, the legislation would eliminate "use immunity" which was created in the Organized Crime Control Act of 1970, and since then applied to scores of witnesses with no visible or alleged connection with "organized crime"—racketeering, gambling, narcotics, and prostitution. Use immunity allows the Government to compel a witness to testify, even in a way which incriminates himself, and to later prosecute that person for the crime about which he testifies. The immunity offered provides only that at the later trial, the Government may not use any of the person's compelled testimony, or anything derived from that testimony.

Use immunity has been criticized for the narrowness of the protection which it offers the witness. There is no way for a defendant, a year or two earlier a recalcitrant witness, to trace the way his testimony was used by one, then another and another Federal, State, and local investigative agency. Nor is there any way for a defendant to know whether the prosecutor's tactical decisions concerning presentation of the case were shaped by information derived from the defendant's compelled testimony.

The legislation would permit the Government to grant to a witness only transactional immunity—protecting the witness from prosecution for any of the events or transactions about which he testifies.

In other sections, the legislation would provide a number of procedural safeguards, at each point strengthening the rights of the witness: providing for 10 days' notice prior to a hearing on a contempt charge, 7 days' notice before a subpena is returnable, requiring the transcribing of a witness's testimony and giving the witness the right to obtain a transcript of his testimony; allowing a witness to be represented by counsel in the grand jury room; barring any evidence gathered in violation of a witness' constitutional rights; requiring prosecutors to give "Miranda" warnings to witnesses prior to beginning questioning; and a number of other important procedural protections.

Recent events have pointed out the difficulties inherent in attempts by the grand jury to investigate criminal activity in which members of the executive branch may be implicated. Speaking to this problem, the legislation would allow grand juries to retain their own attorneys when they are investigating crimes in which current or former Government officeholders may be implicated.

A complete discussion of all of the provisions of the bill would be excessively lengthy. I include a summary of the proposed legislation in the RECORD at this point:

SUMMARY OF CONYERS GRAND JURY REFORM BILL

RECALCITRANT WITNESSES

Twelve or more members of the grand jury must vote to make application to the court for an order directing a recalcitrant witness to show cause in a hearing why he/she should not be held in contempt.

Gives the witness ten days notice of a contempt hearing. In the case of a witness subpoenaed to trial, and upon a showing of special need, shorter notice may be given, but not less than five days.

The witness has the right to appointed counsel in contempt proceedings, if the witness is unable to afford it.

Imprisonment shall be in a Federal institution, unless the witness waives this right.

Reduces the period of imprisonment from a maximum of 18 to 6 months for civil contempt, and prohibits reiterative contempt, by making the 6 months cumulative, applying it against any confinement resulting from prior, subsequent, or related grand jury investigations.

Provides that the confined person shall be admitted to bail, pending appeal, unless the appeal is patently frivolous and taken for delay. Appeals shall be disposed of pursuant to an expedited schedule, eliminating the unique "30 day rule", which requires that appeals be decided within 30 days.

Provides that a refusal to answer questions or provide other information shall not be punished if the question or the request is based on any violation of the witness's Constitutional or statutory rights.

Applies all of the above protections to witnesses subpoenaed to trial as well as grand jury witnesses, with the exception of grand jury voting, where in trial the determination is made by the court.

NOTICE TO THE GRAND JURY OF ITS RIGHTS AND DUTIES

Requires that the district court judge who empanels the grand jury give instructions to the grand jurors at the beginning of their term, including: grand jury powers with respect to independent investigation, its right to call and interrogate witnesses, its right to request documents and evidence, the subject matter of the investigation, the necessity of legally sufficient evidence to indict, and the power of the grand jury to vote before a witness may be subpoenaed, granted immunity, be given a contempt hearing or indicted.

Prescribes that failure to so instruct the grand jury is just cause for a refusal to testify or for dismissal of an indictment.

INDEPENDENT INQUIRY

Allows the grand jury, upon notice to the court, to inquire on its own initiative into offenses committed by government or former government officials. The grand jury shall serve for 12 months with no more than two extensions for a maximum of 24 months.

Provides that the court, upon a vote of the grand jury, shall appoint a special attorney to assist the grand jury in investigation. Such attorney will be paid $100/day and may fix compensation for such assistants as is deemed necessary, with the approval of the court. Such attorney shall have exclusive power to assist the grand jury and shall sign any indictment, in lieu of a government attorney.

RIGHTS OF GRAND JURY WITNESSES

Provides that subpoenas be issued only on an affirmative vote of 12 or more members of the grand jury. Subpoenas are not returnable on less than seven days notice. The subpoena must advise the witness of the right to counsel, the right against self-incrimination, whether his/her conduct is under investigation, the subject matter of the inquiry, and the substantive statutes involved. Any witness not advised of these rights cannot be prosecuted, subjected to penalty, or have the evidence used against him/her in court.

Gives witnesses the right to have counsel in the grand jury room, such counsel to be court appointed where appropriate. Counsel shall not be bound by secrecy.

Prescribes that when an investigation includes violations of substantive criminal statutes as well as conspiracy, the grand jury may not be convened in the district where only the conspiracy is alleged.

On the motion of the witness the court shall transfer the investigation to another district in which the proceedings may be properly convened. The court shall take into account the distance of the proceedings from the residence of the witness, other burdens on the witness, and the existence and nature of any related proceedings.

Provides that transcripts shall be made of the procedings, be available to the witness and counsel. In the case of an indigent witness, a copy will be furnished without cost.

Gives the witness and his/her counsel the right to examine and copy any statement of the witness in the possession of the United States which relates to the matter under investigation.

Provides that no person shall be required to testify or be confined if, upon evidentiary hearing, the court finds: (a) a primary purpose or effect of the subpoena is to secure for trial evidence against a person already under indictment, or formal accusation. (b) Compliance with the subpoena is unreason-

able or oppressive and involves unnecessary appearances; or the only testimony that can reasonably be expected is cumulative, unnecessary, or privileged. (c) The primary purpose of the subpoena is punitive.

Gives the court in the district out of which the subpoena was issued, the court in the district in which the subpoena was served, and the court in the district in which a witness resides concurrent jurisdiction over motions to quash and other relief. It allows such motions at any time. If a motion is made prior to or during an appearance, the appearance is stayed, pending ruling. If the motion is made during or subsequent to the apperance, the motion must be made in the district of the empaneled grand jury.

IMMUNITY OF WITNESSES

Abolishes all forced and use immunity before grand juries and courts. Transactional immunity is allowed with the written consent of the witness, and by affirmative vote of twelve or more members of the grand jury; or, in the case of a trial proceeding, with the consent of the witness and by application of the U.S. attorney.

Provides transactional immunity for witnesses before Congressional committees and agency hearings.

REPORTS CONCERNING GRAND JURY INVESTIGATIONS

Requires the Attorney General to file detailed annual grand jury reports, describing: (a) the number and nature of investigations in which grand juries were utilized, (b) the number of requests for orders compelling testimony, and the number granted, (c) the number of immunity grants requested, the number approved, and the nature of the investigations, (d) the number of witnesses imprisoned for contempt, and the dates of their confinement, (e) an assessment of the effectiveness of immunity, including the number of arrests, indictments, no-bills, etc., resulting from compelled testimony, and (f) a description of the data banks, etc., by which grand jury data is processed and used by the Justice Department.

EVIDENCE

Requires the government to introduce all evidence in its possession tending to prove the innocence of a potential defendant.

Prohibits the grand jury from returning an indictment on the basis of hearsay evidence alone.

PROPOSED AMENDMENT TO H.R. 69

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 10 minutes.

Mr. O'HARA. Mr. Speaker, in compliance with the provisions of House Resolution 963, I ask unanimous consent that there be printed at this point in my remarks two additional amendments to H.R. 69, which I reserve the right to offer when that bill is read for amendment next week:

AMENDMENT TO H.R. 69, AS REPORTED, OFFERED BY MR. O'HARA

(O'HARA AMENDMENT NO. 1A)

Page 29, beginning with line 18, strike out everything after "be" down through the period in line 21, and insert in lieu thereof the following: ": (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence."

Page 31, line 17, insert after "be" the following: ": from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated but not more than $1,000,000,000,"

Page 48, line 10, strike out "85" and insert in lieu thereof "90".

AMENDMENT TO H.R. 69, AS REPORTED OFFERED BY MR. O'HARA

(O'HARA AMENDMENT NO. 3A)

Page 28, beginning with line 1 strike out everything down through page 58, line 18, and insert in lieu thereof the following:

TITLE I—AMENDMENTS OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

DECLARATION OF POLICY

SEC. 101. Section 101 of title I of the Elementary and Secondary Education Act of 1965, as amended, is amended to read as follows:

"Sec. 101. In recognition of the special educational needs of educationally deprived children and the impact that the presence of such children have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving such children to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children."

EXTENSION OF TITLE I PROGRAMS

SEC. 102. Section 102 of title I of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as "the Act") is amended (1) by striking out "for grants to local educational agencies", and (2) by striking out "1973" and inserting in lieu thereof "1977".

ALLOCATION OF FUNDS

SEC. 103. Section 103(a) of title I of the Act is amended to read as follows:

"SEC. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be: (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdiction excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulation established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(C) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be: from two-thirds of the

amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000, the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

TECHNICAL AMENDMENT

SEC. 104. Section 103(b) of title I of the Act is amended by striking out "aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

DETERMINATION OF NUMBER OF CHILDREN TO BE COUNTED

SEC. 105. (a) Section 103(c) of title I of the Act is amended to read as follows:

"(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds."

(b)(1) Section 103(d) of the Act is redesignated as paragraph (2) of subsection (c) and the first sentence thereof is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(2) The second sentence of paragraph (2) of such section (as so redesignated) is deleted, and the third sentence of paragraph (2) of such section (as so redesignated) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a non-farm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(3) The fourth sentence of paragraph (2) of such section (as so redesignated) is amended by inserting "(C)" before "When" and by striking out "having an annual income less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A))".

(c) Section 103 of the Act is amended by striking out subsection (e).

SPECIAL USE OF FUNDS FOR INDIAN CHILDREN

SEC. 106. Section 103 of title I the Act is amended by adding at the end thereof the following:

"(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of section 131(a) and 133(a)(3)."

STATE OPERATED PROGRAMS

SEC. 107. Title I of the Act is amended by inserting the following in lieu of parts B and C:

"PART B—STATE OPERATED PROGRAMS

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, may receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissoner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agriculture workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal

of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 131(a), and of section 132; and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provisions will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes f this section in one or more States, and for this purpose he may use all or part of the total of grants available for such State or States under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be eligible to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditures is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 125. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title."

USE OF FUNDS BY LOCAL EDUCATIONAL AGENCIES; PARENT ADVISORY COUNCILS

SEC. 108. (a) Section 141(a)(1) of the Act is amended by striking out so much thereof as precedes clause (B) and inserting in lieu thereof the following:

"(1) that payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which meet the individual needs of children demonstrating the need for remedial education, and such payments shall be used only for such needs of such children, without regard to race, sex, religion, national origin, family income, or any other socio-economic criteria, and".

(b) Section 141(a)(2) of the Act is amended to read as follows:

"(2) that the local educational agency has provided satisfactory assurance that section 132 will be complied with;".

(d) Section 141 of the Act is amended by striking out subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) It is the purpose of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated) agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child. The plan shall include (1) a statement of the child's present levels of educational performance, (2) a statement of the long-range goals for the education of the child and the intermediate objectives related to the attainment of such goals, (3) a statement of the specific educational services to be provided to such child, (4) the projected date for initiation and the anticipated duration of such services, (5) objective criteria and evaluation procedures and a schedule for determining whether intermediate objectives are being achieved, and (6) a review of the plan with the parent or guardian at least annually with provision for such amendments as may be mutually agreed upon."

ADJUSTMENTS NECESSITATED BY APPROPRIATIONS

SEC. 109. Section 144 of title I of the Act is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 90 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount the total of the increases thereby required

being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any of such remaining local educational agencies from being thereby reduced to less than such amount."

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 110. (a) Sections 142 through 144 of the Act (and all cross-references thereto) are redesignated as sections 143 through 145, respectively (and will be further redesignated under section 110(h) of this Act), and the following new section is inserted immediately after section 141:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 132. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements meeting the requirements of section 131(a) (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate.

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(3) When the Commissioner arranges for services pursuant to this section, he shall after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title."

TECHNICAL AND CONFORMING AMENDMENTS TO TITLE I OF ESEA

SEC. 111. (a) Section 141(a)(4) of title I of the Act is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(b) Sections 141(a)(1)(B) and 144(a)(2) (as redesignated by section 109 of this Act) of the Act are each amended by striking out "maximum".

(c)(1) Section 143(a) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "described in section 141(c)" and inserting in lieu thereof "provided for in section 122".

(2) Section 143(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(d) Section 144(a)(2) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "or section 131".

(e) Section 144(b)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(f) The third and fourth sentences of section 145 (as redesignated by section 109 of this Act) of title I of the Act are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(g) Sections 146 and 147 of title I of the Act are each amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(h) Part D of title I of the Act (and any cross-reference thereto) is redesignated as part C, section 141 of the Act (and any cross-reference thereto) is redesignated as section 131, sections 143 through 145 of the Act (as redesignated by section 109 of this Act) (and cross-references thereto) are further redesignated as sections 133 through 135, respectively, sections 146 through 149 of the Act (and cross-references thereto) are redesignated as sections 136 through 139, respectively, and section 150 of the Act (and any cross-references thereto) is redesignated as section 141.

(i) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraphs:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(17) For the purposes of title II, 'excess costs' means those costs directly attributable to programs and projects approved under that title which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures under that title for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities)."

STUDY OF PURPOSES AND EFFECTIVENESS OF COMPENSATORY EDUCATION PROGRAMS

SEC. 112. (a) In addition to the other authorities, responsibilities and duties conferred upon the National Institute of Education (hereinafter referred to as the "Institute") by section 405 of the General Education Provisions Act, the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965. Such study shall include—

(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes,

(2) an analysis of means to accurately identify the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof,

(3) an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children,

(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas,

(5) experimental programs to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out clauses (1) through (4), and the Commissioner of Education is authorized, notwithstanding any provision of title I of the Elementary and Secondary Education Act of 1965, at the request of the Institute, to approve the use of grants which educational agencies are eligible to receive under such title I (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs, and

(6) findings and recommendations, including recommendations for changes in such title I or for new legislation, with respect to the matters studied under clauses (1) through (5).

(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of submission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before its transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(d) There is authorized to be appropriated to carry out the study under this section the sum of $15,000,000.

(e)(1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

SEC. 113. (a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103(c)(1)(A) of title I of the Act. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Sec-

retary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, no later than February 1, 1975.

(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act in school districts of local educational agencies in order to make adjustments in the amounts of the grants for which local educational agencies within a State are eligible under section 103(a)(2) of the Act, and shall report to the Congress, no later than February 1, 1975, the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for such purpose, together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and the potential utility of data derived therefrom) for making adjustments in the amounts paid to each State under section 134(a)(1) of title I of the Act.

(c) No method for making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress.

AMNESTY: THE TIME HAS COME

The SPEAKER pro tempore. Under a previous order of the House, gentlewoman from New York (Ms. ABZUG) is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, yesterday it was my privilege to testify on the subject of amnesty before the Courts, Civil Liberties and Administration of Justice Subcommittee of the Judiciary Committee.

The chairman of that committee is to be congratulated for holding these important hearings and presenting to the House the important issue of amnesty.

In today's New York Times there is an editorial that ably states the position: we have made peace with our former "enemies" and now it is time to make peace with our sons and husbands who resisted the war in Vietnam. I would like to insert in the RECORD my testimony and the New York Times editorial:

TESTIMONY OF THE HONORABLE BELLA S. ABZUG

Mr. Chairman, Members of the Committee, I am pleased to have the opportunity to appear before you this morning to discuss amnesty legislation including my bills, H.R. 236 and H.R. 5195, cosponsored by Representative John Conyers and Representative Parren Mitchell, and H.R. 3100, sponsored by Representative Ronald Dellums, all identical bills.

The war in Vietnam is supposedly over. Our prisoners of war have come home. But some 600,000 young Americans are still prisoners of the war system. For their refusal to take part in a war that the public now repudiates they are prohibited from contributing their talents to our society.

Over 52,000 young men resisted the draft; some 7,000 were classified as felons and some 39,000 await prosecution. Another 32,000 resisted after induction, went AWOL and are classed as deserters. Some 30,000 to 50,000 left the country. An astonishing 450,000 Vietnam era veterans received less than honorable discharges for acts that would not be crimes in the civilian world.

These citizens are as much the responsibility of Congress as were the POW's. They too are victims of the misguided policy that led us into Vientam. They and their families have suffered and the nation has been the loser. The time has come for reconciliation; the time has come for amnesty.

Since our earliest history, this government has granted amnesty after wars and rebellions at home and abroad. From the Shays and Whiskey Rebellions, through the War of 1812, the Civil War and the First and Second World Wars, the cessation of hostilities has generally been followed by one or another form of amnesty.

A brief review of these amnesties will illustrate their variety and the numerous instances of separate presidential or congressional action. During the Civil War period, when Presidents Lincoln and Andrew Johnson were more inclined to forgive the Confederates than were the Radical Republican Congresses, congressional action was piecemeal. In 1862, Congress authorized the President to "pardon and amnesty" those participating in the rebellion; in 1872, Congress reenfranchised many thousands of former rebels; in 1884, Congress removed disabilities of former rebels to serve on juries or hold civil office; in 1896, Congress lifted restrictions on former rebels to allow their appointment to military commissions; in 1898 that Congress passed a Universal Amnesty Act removing all disabilities against all former rebels.

Since that time, executive amnesties or pardons have predominated. President Wilson, in 1917, pardoned some political opponents of World War I, President Coolidge, in 1924, remitted citizenship and civil rights to men who had deserted the Armed Forces between the end of World War I hostilities and the formal termination of war in 1921. He called this an amnesty. In 1933, President Franklin Roosevelt granted "full pardon" to all violators of World War I draft laws and the 1917 Espionage Act. In 1946 President Truman appointed a "President's Amnesty Board," headed by Supreme Court Justice Roberts, which, acting in the nature of a parole board, considered Selective Service violators on a case by case basis. This board dissolved itself in December 1947. In December 1952 President Truman remitted citizenship and civil rights to all persons convicted of military desertion between the end of World War II and June 25, 1950. No further amnesties or general pardons have since been granted.

Despite this history of Congressional as well as executive action, the Nixon Administration now suggests that Congress may lack the constitutional authority to provide amnesty. Alleging that the President has exclusive power to grant pardons or amnesty to those who have violated federal laws, it is argued that Congress cannot infringe on that authority either by interference with the exercise of his power or by granting amnesties which the President has decided not to grant. This is nonsense!

It is quite clear, both from historical precedent and from a reading of the Constitution, that the authority to provide amnesty is not an exclusive one but one that may be exercised by the President or the Congress. No one can deny that the President, pursuant to Article II, Sec. 2 of the Constitution, has the authority to grant "pardons for offenses against the United States." Some legal scholars have expressed doubts as to whether this grant of power is broad enough to include the grant of complete amnesty,[1] including restoration of citizenship.[2] The President does have power to grant some types of amnesties for violations of federal laws. The Supreme Court long ago held, however, that this power is *not* exclusive and does not preclude the Congress from acting in pursuance of its powers.[3] Article I, Sec. 8, clauses 11, 12, 13 and 14 of the Constitution grant Congresses the power to declare war, to raise and support armies and navies and to make rules for the government and regulation of land and naval forces; clause 18 provides authority to make all laws "necessary and proper" for carrying out these powers and other powers vested by the Constitution. These are broad grants of authority and have been broadly interpreted by the Courts. Can it really be argued that the power to wage war and to prepare for it does not include the further power to deal with the problems of adjustment after hostilities have ceased? And can it be argued that Congress has the power to enact conscription laws and to set penalties for violation of such laws, that it can provide penalties for desertion, but that it cannot revoke those penalties? The power of Congress to define and provide punishment for crimes and offenses when "necessary and proper" has been universally conceded.[4]

Amnesty quite clearly can be granted either by the President or the Congress. It may be that, once the President has granted an amnesty, the Congress cannot limit its effect. At least one case, *United States* v. *Klein*,[5] has so held. But that involved a Congressional attempt to nullify the effect of Executive proclamations, pardons or amnesties. Chief Justice Chase there stated that "the legislature cannot change the effect of such a pardon any more than the executive can change a law." This is not what we are attempting to do here. Quite the contrary. There has been no executive action in this area. Congress is now attempting to fill that void by exercising its legitimate legislative functions.

This committee has under consideration several types of amnesty bills. Our legislation, H.R. 236, H.R. 5195 and H.R. 3100 varies from the others in that it would provide unconditional general amnesty to war resisters and deserters. I cannot argue too strongly against the imposition of any requirements—alternative service, punishment, or a showing of "repentance"—as a condition for amnesty. The imposition of such conditions can be justified only on the theory that these young men have enjoyed some unfair personal advantage vis-a-vis those who served in the Vietnam war and that they must now serve their time. But these men have already paid a huge price for their exercise of conscience. Having already suffered the hardships of exile, underground existence, imprisonment or life as an ex-convict, they should not be penalized further for their refusal or inability to support an illegal and unconstitutional war and what many now view as the most immoral war in our history.

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[1] For example, the Senate Judiciary Committee concluded in 1869 that the power of the President to grant pardons under Article II, Sec. 2 of the Constitution did not include the power to grant amnesties.

[2] Lusky, Louis, "Congressional Amnesty for War Resisters: Policy Considerations and Constitutional Problems," *Vanderbilt Law Review*, Vol. 25, p. 525, at 538. Professor Lusky points out that only the Congress, pursuant to Article I, Sec. 8, clause 4 of the Constitution, possesses the naturalization power.

[3] *The Laura*, 114 U.S. 411 (1885); *Brown* v. *Walker*, 161 U.S. 591 (1896).

[4] *United States* v. *Fox*, 95 U.S. 670, 672 (1878); *United States* v. *Hall*, 98 U.S. 343, 557 (1879); *United States* v. *Worrall*, 2 Dall. 384, 394 (1790); *McCullock V. Maryland*, 4 Wheat. 316 (1819).

[5] 13 Wall. 128, 143, 148 (1872).

I want to share with this Committee some very moving testimony I heard during two days of ad hoc hearings which I and other members of Congress held last spring and fall. I remember specifically the testimony of a young woman, the wife of a draft resister, who described their plight now that her husband was out of jail. She told us that because of her husband's "criminal" record, he could not get a job in his chosen career, teaching, and that they and their small child were forced to live on welfare while she tried to find a job to support them. Has this family paid a severe enough price?

I also recall the testimony of a middle-aged woman from San Francisco whose son was a deserter from the Army, living in Canada. She related how her son enlisted in the Army to please his father, who was a career noncommissioned soldier. After his enlistment the young man had come to the moral conclusion that he could not serve in Vietnam. Rather than live underground, he went to Canada. She had not seen her son in a number of years. Even when her husband was critically ill, her son could not risk returning to the United States. Her son was not even able to attend his father's funeral. Has this family paid a severe enough price?

Faced with the human beings to whom this law would apply, I believe that even former Secretary of the Army Froehlke, former Secretary of Defense Laird, and other advocates of conditional amnesty will see the need to eliminate punitive conditions. Even Mr. Froehlke suggests that convicted draft evaders who have served a prison term should not be required to perform an additional service in order to qualify for amnesty. "Their service in prison should be considered service to country," he stated in his testimony before this Subcommittee. But if a prison term be considered "service" for one's country, why not a fugitive's existence or a period of exile? Is he really talking of service or does he mean punishment? I submit that, in just the same way, those who faced self-imposed exile, those who lived precariously in the underground, those who cannot find work because of questionable discharges from military service, have suffered enough. So have their families.

They have paid the price for following a moral imperative: Thou shalt not kill. They were among the first to challenge the morality of our acts in Vietnam. They made us think more deeply about what we were doing there. The courage required by this lonely stance is hard to imagine until one has talked, as I have, with hundreds of such men and their families.

That is why my bill provides for unconditional amnesty. It would also apply to all classes of essentially non-violent war resisters, including not only draft evaders and of deserters but antiwar demonstrators as well. Amnesty would be granted automatically in most instances, but an Amnesty Commission would be established with authority to grant amnesty to violators of other Federal, State or local laws, if the Commission finds that such violations were substantially motivated by opposition to the war and did not result in significant property damage or substantial personal injury.

The amnesty granted under my proposed legislation would be complete and would contravene every legal consequence suffered as a result of war resistance. It would restore all civil, political, citizenship and property rights. It would immunize persons from criminal prosecution, release those imprisoned and expunge all criminal records. It would also require the Armed Forces to grant an honorable discharge in place of other than honorable discharges.

Other amnesty proposals have suggested automatic amnesty for draft violators but more careful consideration or no consideration at all for deserters. The theory, supposedly, is that the motives of draft evaders are more easily identifiable as conscientious, while the motives of deserters are more diverse or tend to be selfish. This theory is not supported by the facts. I question its relevance, since it is impossible to devise a fair administrative mechanism to identify motives. The records of draft boards and military boards who have ruled on the sincerity of conscientious objectors show that such proceedings are by nature arbitrary and capricious, discriminating flagrantly against those who are less well educated and less articulate in stating their beliefs. In fact, many war resisters, both convicts and fugitives, are themselves conscientious objectors who were unable to convince their draft boards but unwilling to compromise their beliefs. In *Seeger* v. *United States* (380 U.S. 163 (1965)), the Supreme Court acknowledged, "(O)ne deals with the beliefs of different individuals who will articulate them in a multitude of ways . . . Local boards and courts . . . are not free to reject beliefs because they consider them 'incomprehensible.'"

What recourse would they have if they failed a second time to establish their sincerity in an arbitrary administrative proceeding? The ineffectiveness, not to mention the injustice, of a case-by-case review board was demonstrated in Truman's "President's Amnesty Board" of 1946-47. Of the 15,805 resisters considered by this Board, only 1,523 were granted "amnesty." All Jehovah's witnesses were refused amnesty. Technically, this review board provided pardon, not amnesty.

More important, however, would be the gross inequity of discriminating between these two groups of war resisters. As we all know, a new, less restrictive definition of "Conscientious Objector" was enunciated by the Supreme Court in 1970. But this was long after many young men had already been refused C.O. status. Even after the Court's decision in the *Welsh* case,[6] there were many less educated young men who were unable to articulate their beliefs in such a manner as to qualify for C.O. status. Many more, I am sure, were not even aware of the Supreme Court's holding or of the procedures to be followed to qualify for such status. Others, feeling an obligation to serve their country, accepted induction but later found it impossible to participate in the war in Vietnam. All, I submit, acted on the basis of their strong moral beliefs. How can we possibly distinguish among them without doing violence to our own principles of justice and equity? We all know that the draft, as administered, was grossly discriminatory—allowing student deferments and providing loopholes for those who knew the ropes. Only by granting a blanket amnesty to all war resisters can we hope to overcome, at least in part, these past inequities and discriminations against the poor, the less well-educated, and members of minority groups.

Critics of amnesty are numerous, vocal, and in the main, sincere. Two arguments are most frequently advanced by them to counter the idea of amnesty. First, while few critics attempt to justify the war policy itself, they argue that amnesty for war-resisters would dishonor the sacrifices made by those Americans who fought in Southeast Asia. I do not belittle these sacrifices. On the contrary, I mourn them bitterly and deeply because I deem them to have been purposeless, squandered by the Government for wrongful ends or no ends at all. I am angered and I am sickened when I consider all the tragedies of the war, but I do not direct my anger at those who refused to fight who were themselves victimized. I direct my anger at the responsible parties—the warmakers in our Government. They are the ones who dishonored our soldiers, by using them and wasting them in a corrupt enterprise. If the Government had listened to the draft resister, the demonstrator, and the deserter long ago, many lives would have been saved and much suffering averted.

To make an anology, when a court system sentences a man to death and later strikes down the law under which he was sentenced, reversal is ordered. The courts do not insist upon the sentence for the sake of consistency or to honor others who were wrongfully executed. In carrying out this war, the Government, in effect, pronounced sentence erroneously against 55,000 young soldiers. It is time for the Government to reverse itself now, and not blindly perpetuate this wrong by punishing those who refused to fight.

Futhermore, how can we be so concerned that amnesty would dishonor the veterans and casualties of Vietnam, when many of the veterans themselves are the most active, dedicated opponents of the war, and the most vocal proponents of amnesty? Many veterans, having witnessed the war's consequences, and having now examined its deceptive rationale, have concluded that they should not have fought and would themselves have refused to fight had they been aware of the facts at the time.

A second argument commonly advanced to oppose amnesty is that amnesty now would lead young men of the future to believe that they could shirk their military duties with impunity. Thus, the argument goes, in some future national emergency, we would be unable to raise armies. But, as I have pointed out, amnesty measures have followed nearly every major war in our history. Amnesty is an American tradition. And yet history also shows that whenever the country has been in danger, young citizens have responded and sacrificed willingly in combat.

In fact, this country never has experienced significant difficulty in raising armies for its real military needs. I have faith in the patriotism of young Americans. I have faith that they would rise to defend this country if a national emergency really required it. But I also have faith in their ability to think for themselves, to distinguish right from wrong where their Government's policies are concerned, and to have the courage to resist official policies where they are manifestly immoral.

For these reasons I reject the contentions of those who would deny amnesty. I submit, to the contrary, that a broad amnesty measure would honor us as a nation and serve our most vital national interests. It would heal at least some of the wounds remaining from this immoral war and would enable us—as a nation—to utilize one of our most valuable resources, the thousands of young men and women lost to self-imposed exile.

For the first time in our history, a significant segment of our young people—together with their *families*—have found it necessary to live abroad. A major purpose of any amnesty measure must be to bring these exiles home, so they can lend their energies to rebuilding the nation, to effecting the changes we need, and to work within the political structure to insure that we will have no more Vietnams. No measure short of unconditional, universal amnesty such as I have proposed will bring these men home.

They reject the concept of amnesty for some and not others and they reject the idea of alternative service. All those to whom I have spoken or written ask the same question in various ways, "If the war was criminal and we refused to commit the crime, why should we be punished?"

I join with war resisters in rejecting the

[6] *Welsh* v. *United States*, 398 U.S. 333 (1970).

tokenism inherent in other proposals for less than total, blanket amnesty.

Amnesty is not only a legal question, it is a moral one. It is the morality of the issue which caused millions of Americans to question the war, and it is the morality of the issue that has caused many of the leading religious institutions to raise their voices in favor of amnesty.

The Protestant Episcopal Church of the United States, in the fall of 1973, passed the following resolution:

"Whereas, American society must proceed to heal the wounds at home and abroad caused by the War in Indochina and to reconcile all people in peace . . . Resolved, that the House of Deputies concurring, that this Convention calls upon diocese and parishes of this church to include in their Christian education and social concerns program a serious consideration of the question of amnesty and the needs of returning veterans."

In November of last year, the Biennial General Assembly of the Union of American Hebrew Congregations passed the following:

"Based on the Jewish religious concern to reconcile generation with generation, person to person and in consonance with the prophetic cry of Malachi: to turn the hearts of the parents to the children and the hearts of the children to the parents, it is our considered judgment that the first way to effect this healing process is by Congress granting amnesty to those young men who found, early or late, that they could not participate in the war and went to prison, resisted or deserted. As we make peace with our enemies let us also make peace with these, our youth.

"With full respect for those who chose to serve and those who sacrificed so much for their country, we call upon Congress to grant unconditional amnesty as an act of reconciliation and compassion that can help speedily reunite the American people for the key task of justice and peace which lie ahead."

I would also like to note that the United States Catholic Conference has adopted a position favoring unconditional, universal amnesty. They said:

"Who should be granted amnesty?

"First, those young men who were subject to the draft but whose informed conscience led them to oppose participation in the Vietnam war, even though they could not say in conscience that they were opposed to all use of military force. These selective conscientious objectors are now serving prison terms. We do not believe any useful purpose is served at this time by continuing the incarceration in federal prisons of these young men whose consciences instructed them not to engage in the killing and dying in the Vietnam war . . . Secondly, we also recognize that an additional group of young men are in a somewhat similar position, that is, men in military service, who for reasons of their consciences were compelled to refuse to serve in the war and who were imprisoned or given less than honorable discharges. Here again the complicating impact of selective conscientious objection upon the structures of military law is evident. However, we do not believe that the individual forfeits his right to exercise the dictates of his conscience once he enters the ranks of the military, or, for that matter, any other form of employment. The request for amnesty for selective conscientious objectors in federal prisons, therefore, should also be extended similarly to men in military jails.

"Thirdly, there is the group of young men who have left the country or who have remained in the country as fugitives from the law because they felt compelled to follow their consciences rather than the law. Certainly their experiences of sufferings and separations have been trying for them personally as well as for their families and friends. We again urge officials and all Americans to respond to their conspicuous need to find a solution to the problems of these men through the reconciling work of amnesty."

I would also like to relate to the Committee testimony I heard from Eddie Sowders. Mr. Sowders was a deserter who turned himself back to military control after testifying at the ad hoc hearings I and other Members of Congress conducted in May, 1973.

Mr. Sowders related what he had seen and done in Vietnam and how this led to his decision to leave the Army. He told of what it was like to live "underground" in the United States, moving from one low-paying job to another, sometimes going hungry. But, as he told me and the other Members of Congress at the hearing: "I make no apology for my act of resistance. I could do nothing else at the time." He concluded his statement by saying: "Only by winning a universal, unconditional amnesty for all categories of war resisters can we begin the long process of changing our country and learning from the decade of blood and bitterness in Indochina."

When the Civil War ended, America tried no Confederate soldiers for treason, sent no one who had opposed the Union into exile, sent none of the officers and officials of the Confederacy to prison. Is it too much to ask that we in the 20th century, more than a year after we acted to conclude the longest war in our history, do the same for those who by their courage and the strength of their convictions showed many of us the wrongness of the war in Vietnam? This would go a long way to restoring the faith of our young—in fact of all our people—in our nation's past and future.

[From the New York Times, Mar. 14, 1974]

WE CAN FORGIVE

Ever since President Nixon said categorically more than a year ago that "we cannot provide forgiveness" for draft resisters and self-exiled opponents of the war in Vietnam, it has been evident that any hope of amnesty rests with Congress. Legislation to create an amnesty board to rule on individual cases is now under consideration in the House.

The case of amnesty is reinforced by the fact that the United States has made peace with its former enemies in Indochina and has extended the hand of friendship to the political and military powers that actively supported those former enemies. However, the Pentagon bases its opposition to amnesty on the argument that to show mercy to those who refused to fight in Vietnam is to jeopardize the nation's capacity to rally a military force in case of need. The Justice Department wants to block legislation on the theory that the right to pardon is the prerogative of the executive branch, not of Congress.

Neither of these objections is entirely convincing. In the years between 1795 and the end of the war in Korea, there have been 34 amnesty actions, seven of them granted by Congress, Abraham Lincoln started to pardon draft resisters, and even deserters, while the Civil War still raged. None of these past examples of forgiveness has crippled this country's capacity to defend itself in subsequent conflicts.

The nature of the war in Vietnam—its lack of public support and its questionable practical and moral justification makes it particularly inappropriate for the Pentagon to oppose amnesty on grounds of future military need. Americans are entitled to hope that their sons will not soon again be asked to don uniforms in so dubious a cause.

There is room for debate over the best way to handle the different categories of war resisters and deserters, but it should not be too difficult for a review board of thoughtful men and women to resolve such questions. Americans will long argue whether the settlement that ended this country's participation in the war can rightly be called a peace with honor; but at least we should delay no longer in sanctioning a peace with charity.

DANIELS CALLS FOR UNITED STATES-U.S.S.R. TREATY ON SUEZ CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 10 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, now that the reopening of the Suez Canal is fast becoming a reality, I would hope that the State Department would negotiate a treaty with the Soviet Union closing off this waterway to war vessels of all nations.

Mr. Speaker, unless this is done it seems fairly self evident that a major arms race will develop between the United States and the U.S.S.R. in the Indian Ocean.

It seems reasonable to me that such an agreement would be in the best interests of both nations, the United States because our military budget severely limits our ability to provide other governmental services and the Soviet Union because funds expended for military purposes are diverted from the consumer economy. Thus limiting the arms competition means a richer and fuller life for all Americans and all Russians, too.

But, Mr. Speaker, the danger of an arms buildup is the awful possibility that either side or both will use its military and naval might. Thus, I urge Secretary Kissinger to use his good offices to see that agreement is reached on this vital issue.

IMPROVEMENTS IN VETERANS PROGRAMS ARE IN ORDER

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, recently I saw as an opening sentence in a newspaper editorial this question: "What does it take for America to do right by its Vietnam veterans?" There have been too many reports of delays in veterans education checks. It has been demonstrated that payments to veterans are insufficient. The President has expressed concern about the matter and directed more vigorous efforts for veterans. This has helped in some instances but improvements are not universal. This is a situation which should not be allowed to continue. The Government must express a proper concern for the men who fought the war in Vietnam.

Computers and staff shortages have been blamed. This is not an acceptable excuse. Delivery of checks can be solved by proper and efficient management on the part of the Veterans' Administration. The question of adequacy of veterans' stipends can and must be solved by Congress. The great majority of Americans agree that the Vietnam veterans deserve something better than they are getting.

The House has passed and sent to the Senate a bill to substantially improve veterans' benefits, especially for those who served in the Vietnam war. Justification for improvements particularly in benefits to veterans of the Vietnam war have been demonstrated to be sound and needed,

The bill will cost $2.1 billion over the next 5 years. It increases educational allowances by 13.6 percent, increase the period of eligibility from the present 8 years following discharge, to 10 years, and it reduces the disability requirement for eligibility to receive vocational rehabilitation.

The bill also contains provisions allowing training time to be counted when computing eligibility, and makes provisions for POW's to have special consideration when computing eligible educational allowances. It allows 6 months for refresher training, extends eligibility to pursue farm cooperative training to wives, widows, and orphans of veterans, and it establishes a Vietnam Era Veterans Communication Center within the Veterans' Administration.

This bill now is in the Senate and hopefully, quick action will be taken there so the bill can go to the President and become law. This kind of action is overdue and corrective steps should be taken to bring Vietnam veterans on a par with World War II and other veterans in Federal benefits.

The President had previously proposed an 8-percent educational benefit increase. This was a step in the right direction, but an inadequate one. I believe the bill passed by the House on February 19 achieves a proper goal of educational opportunities for those who served during the Vietnam conflict. The Nation cannot expect Vietnam veterans to educate themselves for benefits which, comparatively speaking, are lower than benefits provided for education for veterans of earlier wars.

Back in the days of the post-World War II GI bill of rights, a veteran could enroll in a college or university, have his tuition paid, his books purchased, live in Government housing if it was available, and receive a check for $75 every month. Government leaders and business executives across the Nation owe their education to this program.

But today, things are different. Because of the soaring costs of higher education, the increase in the cost of living, and the stiff competition for outside jobs, veterans of the Vietnam war find themselves unable to pay for an education and meet day-to-day living expenses on the flat rate formula now in effect.

While it is true some States such as California offer higher education either at very reasonable cost or no cost at all, other State university systems and all private colleges and universities must charge substantial fees for tuition, books, meals, and lodging.

There is no uniformity to the cost of education, but we are asking our Vietnam veterans to educate themselves saddled with a uniform, substandard rate of compensation.

There still remain some areas of inequity even assuming final enactment of the most recent House bill.

Proposals now are being considered to provide supplements in those cases where educational costs exceed the national average. This would be a proper step.

Congress should arrive at formulas to meet all remaining problems in veterans programs. Having served their nation well in an unpopular war, these men and women who wore their country's uniform during the Vietnam conflict now have every right in civilian life to receive the help and cooperation of a nation which should not be hesitant in showing its gratitude. Their useful and productive careers were interrupted, some seriously because they served in uniform during this period. Now let us help to insure that they still find useful and productive careers.

A BILL TO END DISCRIMINATION AGAINST CONSCIENTIOUS OBJECTORS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on March 4 of this year, the U.S. Supreme Court upheld as constitutional a lower court ruling in which a conscientious objector who had served 2 years of alternative civil service was denied Veterans' Administration education benefits. I believe that this decision points out the error made by Congress in 1966 in not including among the beneficiaries conscientious objectors who gave their country 2 years of alternative service.

I am today introducing legislation to extend Veterans' Administration benefits to conscientious objectors who have given 2 years of alternative service. These persons have been excluded from such benefits, despite disruption of their lives and careers equal to those who have served in the Armed Forces.

Justice Douglas, in his dissent from the March 4 Supreme Court decision, pointed out that persons who work at noncombatant "safe desk jobs" in the military receive full benefits. Many, he continued, have even worked from 9 to 5 and attend college classes at night. No "hazardous duty" was required for these persons to receive benefits.

Justice Douglas also argued that it is demeaning to suggest that one must forego religious scruples to gain a monetary advantage. As precedent, he cited a 1963 case, Sherbert against Verner—374 U.S. 398—in which the Supreme Court held that a Seventh Day Adventist could not be denied State unemployment benefits because she refused to work on Saturday, her religions Sabbath Day.

According to the accompanying report—H. Rept. No. 89–1258—the 1966 legislation (H.R. 12410) was intended to "help the veteran to follow the educational plan that he might have adopted had he never entered the Armed Forces." This included persons who worked in noncombatant jobs. Certainly conscientious objectors who performed alternative service equally disrupted their pursuit of education.

From its earliest beginnings, including the Revolutionary War, the country has allowed bona fide conscientious objectors to provide civilian service as an alternative to military service. To deny such young men, who abide by both their consciences and the laws of the United States, veterans' benefits provided all other persons whose careers were interrupted by the draft, is unconscionable. The purpose of the VA benefits program is to assist in the readjustment of those removed from the mainstream of economic life; the need for this aid is the same whether a man served in the military or in a civilian hospital.

The civilian service required of a conscientious objector has never been construed as punishment, but rather as an acceptable decision of conscience and service in lieu of bearing arms. To deny veterans' benefits to those young men denigrates conscientious objector status and service, and effectively punishes them for exercising their religious, moral, and philosophical beliefs. This country is great because it has encouraged and guaranteed religious freedom. We lessen that greatness by discriminating against such conscientious objectors.

The legislation which I am introducing would retroactively extend veterans' benefits and eligibility for veterans home loans to conscientious objectors since 1964, the year the United States Code defines at the beginning of our involvement in the Vietnam war.

My colleagues who are cosponsors of this legislation include Mr. BADILLO, Mr. BROWN of California, Mr. EDWARDS of California, Mr. YOUNG of Georgia, Mr. MITCHELL of Maryland, Mr. DELLUMS, Ms. ABZUG, Mr. RIEGLE, and Mr. NIX.

Mr. Speaker, I include for the RECORD the text of Justice Douglas' opinion, which states the reasons why justice demands that there be no discrimination against conscientious objectors.

The opinion follows:

[Supreme Court of the United States No. 72–1297—on Appeal from the United States District Court for the District of Massachusetts]

DONALD E. JOHNSON, ADMINISTRATOR OF VETERANS' AFFAIRS, ET AL., APPELLANTS, *v.* WILLIAM ROBERT ROBISON, ETC.

[March 4, 1974]

Mr. Justice Douglas, dessenting.

In *Braunfield* v. *Brown*, 366 U.S. 599, I expressed my view that Pennsylvania's Sunday closing law was unconstitutional as applied to Sabbatarians, see 366 U.S. at 561, 575, 577. The State imposed a penalty on a sabbatarian for keeping his shop open on the day which was the Sabbath of the Christian majority; and that seemed to me to exact an impermissible price for the free exercise of the Sabbatarian's religion. Indeed, in that case the Sabbatarian would be unable to continue in business if he could not stay open on Sunday and would lose his capital investment. See *id.*, at 611.

In *Girouard* v. *United States*, 328 U.S. 61, we held in overruling *United States* v. *Schwimmer*, 279 U.S. 644, that the words of the oath prescribed by Congress for naturalization—"will support and defend the Constitution and the laws of the United States of America against enemies, foreign and domestic"—should not be read as requiring the bearing of arms, as there is room under our Constitution for the support and defense of

the Nation in times of great peril by those religious scruples bar them from shouldering arms. We said: "The effort of war is indivisible; and those who religious scruples prevent them from killing are no less patriots than those whose special traits or handicaps result in their assignment to duties far behind the fighting front. Each is making the utmost contribution according to his capacity. The fact that his role may be limited by religious convictions rather than by physical characteristics has no necessary bearing on his attachment to his country or on his willingness to support and defend it to his utmost." 328 U.S., at 64–65.

Closer in point to the present problem is *Sherbert* v. *Verner*, 374 U.S. 398, where a Seventh Day Adventist was denied unemployment benefits by the State because she would not work on Saturday, the Sabbath Day of her faith. We held that that disqualification for unemployment benefits imposed an impermissible burden on the free exercise of her religion, saying: "Here not only is it apparent that appellant's declared ineligibility for benefits derives solely from the practice of her religion, but the pressure upon her to forgo that practice is unmistakable. The ruling forces her to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work, on the other hand. Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine imposed against appellant for her Saturday worship." *Id.*, at 404.

And we found no "compelling" state interest to justify the State's infringement of one's religious liberty in that manner. *Id.*, 406–408.

In *Wisconsin* v. *Yoder*, 406 U.S. 205, we held that Wisconsin's compulsory school attendance law as applied to Amish children would gravely impair the free exercise of their religious beliefs.

The District Court in the present case said that the penalty which the present act places on conscientious objectors is of a lesser "order or magnitude"[1] than that imposed in the cases past maintained, 352 F. Supp., at 860.

That is true; yet the discrimination against a man with religious scruples seems apparent. The present Act derives from a House bill that had as its purpose solely an education program to "help the veteran to follow the educational plan that he might have adopted had he never entered the armed forces." H.R. Rep. No. 89–1258, 89th Cong., 1st Sess., p. 5. Full benefits are available to occupants of safe desk jobs and the thousands of veterans who performed civilian type duties at home and for whom the rigors of the "war" were far from "totally disruptive," to use the Government's phrase. The benefits are provided, though the draftee did not serve overseas but lived with his family in a civilian community and worked from nine until five as a file clerk on a military base or attended college courses in his off-duty hours. No condition of hazardous duty was attached to the educational assistance program. As Senator Yarborough said,[2] the benefits would accrue even to those who never served overseas, because their "educational progress and opportunity" "has been impaired in just as serious and damaging a fashion as if they had served on distant shores. Their educational needs are no less than those of their comrades who served abroad."

But the line drawn in the Act is between those who served as conscientious objectors and all other draftees. Conscientious objectors get no educational benefits whatsoever. It is, indeed, demeaning to those who have religious scruples against shouldering arms to suggest, as the Government does, that those religious scruples must be susceptible of compromise before they will be protected. The urge to forego religious scruples to gain a monetary advantag would certainly be a burden on the Free Exercise clause in cases of those who were spiritually weak. But that was not the test in *Sherbert* or *Girouard*. We deal with people whose religious scruples are unwavering. Those who would die at the stake for their religious scruples may not constitutionally be penalized by Government for the exaction of penalties because of their Free Exercise of religion. Where Government places a price on the Free Exercise of one's religious scruples it crosses the forbidden line.[3] The issue of "coercive effects," to use another Government phrase, is irrelevant, Government, as I read the Constitution and Bill of Rights, may not place a penalty on anyone for asserting his religious scruples. That is the nub of the present case and the reason why the judgment below should be affirmed.

FOOTNOTES

[1] "First, the denial is felt, not immediately, as in *Sherbert*, but at a point in time substantially removed from that when a prospective conscientious objector must consider whether to apply for an exemption from military service. Secondly, the denial does not produce a positive injury of the sort effected by a Sunday closing law or ineligibility for unemployment payments. Considering these factors, the court doubts that the denial tends to make a prospective alternate service performer choose between following and not following the dictates of his conscience." 352 F. Supp., at 860.

[2] Hearings, Subcommittee of Veterans Affairs of the Senate Committee on Labor and Public Welfare, "Cold war GI Bill—1965," 89th Cong., 1st Sess., pp. 2899–2900.

[3] *Gillette* v. *United States*, 401 U. S. 437, is irrelevant to the present case. There we were concerned with whether the petitioners were validly excluded from classification as conscientious objectors. Here the question is whether the Government can penalize the exercise of conscience it concedes is valid and which exempts these draftees from military service. Moreover in *Gillette* we relied upon the fact that the Government's classification was religiously neutral, 401 U. S., at 451, imposed only "incidental burdens" on the exercise of conscience, and was "strictly justified by substantial government interests that relate directly to the very impacts questioned," *id.*, at 462. Here the classification is not neutral but excludes only those concerned by the Government to have religious-based objections to war; and thus the burden it imposes on religious beliefs is not "incidental." And here we have no Government interest even approaching that found in *Gillette*—the danger that, because selective objection to war could not be administered fairly, our citizens would conclude that "those who go to war are chosen unfairly or capriciously [resulting in] a mood of bitterness and cynicism [that] might corrode the . . . values of willing performance of a citizen's duties that are the very heart of free government." *Id.*, at 460. The only Government interest here is the financial one of denying these petitioners educational benefits. That in my view is an invidious discrimination and a penalty on those who assert their religious scruples against joining the armed services which shoulder arms.

SENATOR ROBERT C. BYRD

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, under unanimous consent, I include an excellent column by Beth Spence, editor of the Logan News, Logan, W. Va., dated March 8, 1974. Miss Spence's column, entitled "Echoes From the Hills," is a regular weekly feature of the Logan News and is gaining increasing attention for its perceptive comments. This week's column includes some richy deserved praise for West Virginia Senator ROBERT C. BYRD, majority whip of the Senate, whose recent appearance on "Meet the Press" drew widespread favorable comment throughout West Virginia and the Nation.

The article follows:

ECHOES FROM THE HILLS

(By Beth Spence)

In his Sunday appearance on "Meet the Press," U.S. Senator Robert C. Byrd talked about Watergate and the energy crisis and the Nixon administration candidly, showing a depth of feeling about the man on the street who is trying to make ends meet, keep his car going and survive the present nationwide difficulties that Nixon and his hatchetmen have never been able to show.

His remarks concerning the possible guilt of Nixon in connection with the shoddy Watergate affair were guarded, lest he is part of the jury that must decide whether the president remains in office or not, but he was positive in the belief that a man is responsible for the conduct of his subordinates and that firm moral leadership is needed today. Byrd was also emphatic in his belief that the manila folder given Judge John Sirica by the grand jury investigating the Watergate scandal be turned over to the House committee investigating impeachment as was suggested by the grand jury. It is commonly believed that the information contained in the folder is relative to the president's own involvement in the scandal.

The Senator also stated the belief that the Congress is moving steadily toward impeachment and that, if the House does vote to impeach, the trial by the Senate would proceed immediately without the type of delay the House has encountered because Senate rules governing an impeachment trial are clear and no research needs to be done regarding them.

But by far the most provocative question which Byrd posed to the nation via the electronic medium was in response to a question about the current gasoline shortage. The Senator spoke out in favor of the rollback of oil prices and gasoline prices as contained in the energy conservation bill passed by the Congress which is waiting for the president's signature.

Byrd said he doesn't understand how the president can expect coal miners and poor people and the elderly dependent on their own transportation, as in southern West Virginia, to pay $3 to $4 more for gas. "Whose side is he on anyhow?" Byrd asked.

That question is a most important one and one which Americans must find the answer for. And this question may determine whether Richard Nixon remains in the Oval Office to serve out his term. For if he is on the side of the corporation at the expense of the people of the nation and if he is willing to put corporate interest ahead of the interest of the individual, then he is not living up to the moral responsibility of the office in which he serves.

"Whose side is he on anyway?" A very good question and one that might also be posed to the Trailways Bus Company whose executives are trimming schedules in an area that has no other public transportation at a time when people are most dependent on the bus service. Somehow those who cut the schedules and then refused to listen to those who came to what was supposed to be a public hearing do not seem to come out on the side of the old, the poor and the helpless.

And West Virginia's Governor Arch Moore acts as if he has never been to the southern

coal fields. Whose side is he on anyhow when he imposes a quarter tank rule on individuals completely dependent on their automobiles in areas where gas stations are few and far between and where those few operate only a few, if any, hours a day? And whose side is he on when he modifies his plan under much pressure to create a system of bureaucratic red-tape and more problems for the already under-manned West Virginia State Police? Is he on the side of the elderly, who often have to go to Charleston for medical attention or to visit sick relatives? Is he really on the side of the coal miner who has to drive 100 miles a day to work? Is he on the side of the service station attendant who may endanger his life by following the executive order?

The quarter tank ruling has had some funny results. One couple was in Huntington coming to Logan and a service station attendant refused to fill the car up because it contained ⅜ tank of gas. So they drove around town, wasting time to run the tank to ¼ tank. Is this conserving energy?

In barrooms and barber shops, on the streets and in buses, in resaturants and in homes, the number one topic of conversation in Logan County among all types and kinds of people is gasoline. Whether they make monthly trips to Florida or if the monthly trip is merely to the county seat, Logan County is suffering. Our only salvation from the isolation from the rest of the world is the automobile and the gas that makes it run and this salvation has been taken away.

That question "Whose side is he on anyhow" needs to be answered by a lot of folks for a lot of Americans who need to make some sense of what has become of this country. Throughout the seventies Americans have watched with dismay as standards have been lowered in high places, corruption and greed for power have been exposed, presidential appointees have expressed their willingness to put loyalty to the president above their duty to their country and its constitution, there has occurred an erosion of confidence in America not only by citizens of other countries but by Americans themselves.

And as President Nixon fights for his political life he must face up to the question posed by Byrd, "Whose side is he on anyhow?"

FIGHTING ALCOHOLISM

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, recently I was one of a number of Members of this body who attended the 75th Anniversary Breakfast of the International Reform Federation. Known to many as the "First Christian Lobby on Capitol Hill," the International Reform Federation has been at work now for three-quarters of a century in combatting alcoholism through educational activity here and abroad and through programs urging the adoption of relevant legislation at all levels of Government.

This year, among the other pieces of legislation the federation is supporting is H.R. 11106, by our respected colleague, GEORGE E. BROWN, Jr. of California. I have introduced a companion bill, H.R. 13501. I have also introduced H.R. 13500 to require a warning label on containers of alcoholic beverages similar to the warning now contained on packages of cigarettes.

Congressman BROWN was the featured speaker before the Federation's Anniversary breakfast on March 6. Because of the tremendous burden to the Nation of alcoholism and because of the need to find better legislative remedies for this problem, at this point I wish to insert in the RECORD Congressman BROWN's remarks to members of the International Reform Federation on the subject.

REMARKS OF CONGRESSMAN GEORGE E. BROWN, JR.

It is an honor to have been invited to address the International Reform Federation this morning. There are many groups headquartered here in Washington because of their interest in national issues but few so prestigious, with such a long and honorable history, and with such worthy objectives as the Federation. I should pay special tribute at the outset to one of your Board members, Bill Plymat, and to Wilbur Korfhage for involving me in this area of reform. It is very gratifying to be a part of such an effort.

My remarks to you today are directed to the subject of alcoholism and a possible legislative approach to dealing with one aspect of the problem. In considering the problem, however, inevitably one is confronted with its sheer size. On the one hand you have the liquor industry consisting of 516,000 companies which together gross approximately $24 billion per year. The taxes alone on alcoholic beverages are enormous. In 1972, the Federal Government collected $3.7 billion as taxes on distilled spirits while the state and local governments were raising another $1.9 billion. From 1933 to 1972, public revenues from distilled spirits totaled over $100 billion. And on the other hand you have an estimated 9 million alcoholics and millions more who are "dependent drinkers." There are between 25,000 and 50,000 fatal auto accidents each year in which alcohol is a contributory factor. One-half of all homicides and one-third of all suicides are related to the use of alcohol.

Both government and private groups are struggling to find means of dealing with this staggering situation. Many programs have been tried over the years—educational, church, family, AA, government. Some have been abandoned; others continue in a valiant effort to come up with solutions.

But continuously undercutting all such efforts is the pernicious influence of cleverly designed advertisements for alcoholic beverages, advertisements which pour forth in a veritable flood in magazines, newspapers, posters, radio, and TV. One estimate placed the volume of this advertising at $247 million in 1972. The *Christian Science Monitor*, however, gauges it at more like between $288 million and $900 million. Whatever the correct figure, it dwarfs the $75 million which the Federal Government spends to combat alcoholism through research, training, community programs, etc.

Over the years the figures for advertising of alcohol show a steady increase. The *Statistical Abstract*, for example, reveals that newspaper advertising of liquor increased 11% from 1971 to 1972 and almost 10% for all types of alcoholic beverages. (I regret to note that one of the major newspapers in my own district, a part of the Gannett chain, is one of those which abandoned the old Gannett policy of refusing liquor advertising.) National advertising of beer and wine on television during the same period from 1971 to 1972 increased 35%.

One study of alcoholic beverage ads conducted several years ago found that in a single issue of a national magazine, whiskey, brandy, and liquers were described in the following glowing terms:

Rich in heritage, rich in flavor;
Having a supreme quality, a distinctive taste, a bouquet beyond imagination;
Traditionally fine, peerless, perfect;
A supreme taste-pleasure;
Having a tradition of quality begun 150 years ago;
An old and respected name;
A bottle for a friend;
Famous since 1804; soft flavor, delightful bouquet;
The world's most cherished liquer; and
Holidays deserve sunny morning flavor.

The copywriters for wines were equally enthusiastic:

A joy to taste, a pleasure to serve;
A wine of breeding, balance and delicacy;
A means of glorious living, distinguished dining, treasured remembrance;
Women who know and enjoy exquisite living prefer sherry;
An eminent wine, full and velvety;
Red magic, sorcery of the winemaker's art;
Makes all occasions gala, fine, blended; and
Unsurpassed for 100 years.

The *Monitor* last December took note of the ads appearing throughout the country during that, of all seasons, equating liquor with friendship, Christmas, romance, and good fellowships, and with some of them even artfully aimed at minority groups.

These ads are all pervasive. For one thing, unlike many other types of advertising, alcoholic beverage advertising is so varied that it is likely to be encountered by almost everyone. From ball games to news and drama, in the ever-present spot commercials, in magazine ads and on billboards, you are continuously being assailed. In addition, producers of alcoholic beverages also get a considerable amount of time from the media free in that these products are used in films, plays, stories, and other entertainment features.

Children are conditioned to the acceptance of drinking by cartoons, jingles, and the association of drinking with sports events. Young adults are led to favor drinking through identification with individuals depicted as men and women of breeding and discriminating taste in slick magazines, television, and motion pictures. There are even advertisements now which depict wines not as alcoholic beverages but as the equivalent of soda pop.

As these illustrations demonstrate, although advertising alone may not necessarily create a desire to drink alcoholic beverages, it does confirm and strengthen social appeals and values attached to their use. All advertising makes extensive use of the psychology of suggestion. In promoting products, advertising is directed toward emotional needs as well as actual needs of consumers. Whatever the product is that is being peddled, claims are made which will appeal to the buyer's desire for personal security, social superiority, and identification with symbols of prestige and achievement. Statements are phrased so that the consumer will be persuaded to try the product, and if the article satisfies his wants, he may continue to use it. If the product is not superior to others offered on the market, advertising will particularly focus on attaching emotional satisfaction to its use.

In the case of many products sold in the fashion I have just described, at worst they may constitute an unnecessary drain on one's pocketbook. Alcoholic beverages, however, go far beyond their immediate impact on the pocketbook when one is measuring their deleterious consequences. Even the liquor industry has recognized the need to police its own activities. This has taken the form of submitting advertising layouts to the Alcohol Tax Unit of the Treasury Department for review in advance of publication and keeping ads for hard liquor off television and radio. This very effort to police itself, however inadequate it may be, is a tacit recognition by the industry that its advertising accomplishes far more than simply maintaining the sales of brand-name products in a highly competitive market.

There have been several types of proposals as to how we should meet the problem of

advertising. My distinguished colleague, Senator Strom Thurmond, is a foremost proponent of the approach which would require warning labels in view of the fact that alcohol is a drug and alcoholism has unknown causes. Congressman Hanna has introduced legislation which would curb all advertising on radio and TV, a step that has been adopted in British Columbia and recently recommended for Michigan by the Governor's Task Force on Victimless Crime. Another approach would try to obtain "equal time" under the FCC's fairness doctrine in order to reply to alcohol ads. And yet another proposal is to institute law suits under the provisions of the Uniform Sales Act against the liquor industry challenging the implied warranty of "fitness for purpose" of their product.

My approach is related to that of Congressman Hanna but is somewhat different. My bill H.R. 11106 would simply disallow the advertising of alcoholic beverages as a business tax deduction.

As such it is the counterpart in the House of Representatives of Senator Moss' bill although his would also apply to cigarettes. If H.R. 11106 is passed, not only would we be striking at all liquor advertising but generating considerable tax revenue, estimated at some $250 million for the Federal Government, something which might facilitate increasing the government's program to combat alcoholism from its present meager $75 million per year.

Last week I wrote each Member of the House inviting him or her to join as a cosponsor of H.R. 11106. One of the things which all of you can do while you are here in Washington is to contact all the Representatives you know and urge them to co-sponsor the bill. The prospects for serious consideration of the bill by the Ways and Means Committee will be tremendously enhanced if it bears the names of a significant number of Members of the House.

RAIL FREIGHT TRANSPORTATION IMPROVEMENT ACT

(Mr. ADAMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ADAMS. Mr. Speaker, I am introducing today the Rail Freight Transportation Improvement Act of 1974. The purpose of the bill is to provide Federal loan guarantees to railroads to add to their rolling stock fleet and to make necessary investments in improved rights-of-way, modern freight yards and physical plant. Its introduction today carries out a continuing program started by the Regional Rail Reorganization Act and I hope the House Interstate and Foreign Commerce Committee would promptly consider this freight car assistance bill.

The Rail Freight Transportation Improvement Act is very similar to the financial assistance provisions of the Surface Transportation Act (H.R. 5385) which I introduced early in 1973. The most significant changes would be to make equipment leases eligible for Federal guarantees and would require the Secretary of Transportation to give preference to carpooling companies in guaranteeing rolling stock obligations.

While leasing is not necessarily the best way for a railroad to acquire needed rolling stock, for some of the financially dispersed roads it is practically speaking the only method available. Since these are the roads we hope to revitalize it makes sense to provide explicitly in the bill for guarantees of leases.

I have suggested giving a preference to carpooling companies in obtaining guarantees. I believe this would encourage such developments as the proposed "rail box" subsidary of the Trailer Train Co., which would create a 10,000 carpool of free running general purpose boxcars.

I believe we should try to solve the boxcar shortage by private initiative rather than through direct Government involvement in the actual ownership of equipment. The "rail box" is a useful concept but I believe future efforts should be directed at increasing a national fleet of flatcars which can be generally utilized for carriage of truck trailers or containers. The shortage and high cost of diesel fuel emphasize the importance of intermodal coordination through the "piggybacking" of truck and container freight on railroad flatcars. Piggyback traffic increased nearly 20 percent in 1973 and should continue to increase this year. I am told that shortages of flatcars are already beginning to develop. By proper concentration on the acquisition of this type of equipment, I hope we can avoid a repeat of the boxcar shortage, and produce the flexibility necessary to achieve intermodal exchanges.

My bill will also provide for DOT research and development of a computer system on a nationwide basis to increase freight car utilization. I cannot stress enough the fact that the boxcar shortage is as much one of utilization as it is any actual lack of equipment. The fact that the average car moves loaded 25 days out of the year is dramatic evidence of the need for improved utilization. Some railroads now have excellent computer systems for their own lines and the Association of American Railroads will put into service this year "Trains II" a partial answer to a true nationwide computer system which can facilitate our car supply. Much more can be done and a DOT R. & D. program, performed in conjunction with the industry, can bring the full benefit of modern computer technology to the railroad industry.

Mr. Speaker, in the last session the House spent a great deal of time and effort in developing a solution to the Northeast rail crisis.

I believe we were successful in creating a legislative procedure which, if properly administered, will forestall a disaster and will lead to the creation of a healthy rail system in the Eastern part of the Nation. But the long-range health of our railroads depends on the creation of a financial assistance program part of which I am proposing today.

This is preventive medicine rather than drastic surgery. In effect it will make the Government a lender of last resort. Without such a program, the Northeast disaster will be repeated in other parts of the country. Without financial assistance, the weak railroads will limp along without being able to buy the equipment or pay for the facilities needed to meet the new demands that the energy crisis will place on our railroad network. They will soon be in bankruptcy court. Passage of this legislation can save us from this fate, which through another wave of railroad bankruptcies, would lead to renewed demands for nationalization. I would rather see the Government as the lender of last resort than the owner of last resort.

Finally, I am happy to say that the question of a Federal assistance program is a bipartisan one. The administration agrees with me that this must be done as shown in their Transportation Improvement Act. This proposal calls for $2 billion in loan guarantees for rolling stock and capital investment. Its regulatory reforms are controversial but I believe we can look to the compromises we achieved in the Surface Transportation Act to solve this problem. With strong bipartisan support, and given the fact that the Senate has already passed a freight car bill (S. 1149), I believe the time is ripe for prompt action by the House. Now is the time to act before another railroad crisis is upon us.

HARRY T. BURN PLAYED A MAJOR ROLE IN PASSAGE OF SUFFRAGE AMENDMENT

(Mr. DUNCAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DUNCAN. Mr. Speaker, the 19th amendment to the U.S. Constitution stands as a landmark in the struggle women have made to gain equal participation in all facets of American life.

Indeed the women of our country have achieved tremendous goals in the most recent few years.

Tennessee, and one Tennessean in particular, played a major role in the passage of the suffrage amendment. The State's ratification, by a majority of 1 vote, was the deciding factor in making the 19th amendment part of the Federal Constitution.

This week, Tennessee's participation in the suffrage movement again will be reviewed in a television special to be aired by the Columbia Broadcasting System.

It is part of a series of 13 historical programs to be broadcast over the next 3 years commemorating our Nation's Bicentennial.

The program, "We the Women," which can be seen on March 17, will center upon the historic vote of Harry T. Burn of Niota who cast the deciding ballot in the Tennessee Legislature favoring the vote for women.

Harry T. Burn, who is one of my constituents, is the only living member of that 1920 Tennessee Legislature, and, ironically, is the very man who broke a 48 to 48 tie in favor of ratification. At that time Burn was 24, the youngest member of the State legislature.

Today, he recalls what he felt the day he cast that historic vote:

I appreciated the fact that an opportunity such as seldom comes to mortal man—to free 17 million women from political slavery—was mine.

Now 78 years old, the still active Harry Burn lives on a farm in Niota and also practices law. Burn recalls that—

Nothing as big or tense ever happened again in the Tennessee Legislature.

After Burn cast his historic vote, such a turmoil erupted that he fled out an office window, along a narrow ledge, up a

flight of stairs, and hid in the attic of the capitol building.

When the heat proved overwhelming, Burn retraced his steps and sought refuge in the nearby Hermitage Hotel.

Reflecting on the incident, Burn says:

I don't believe I was crazy enough to walk out on (that ledge). It's only about 18 or 20 inches wide. I'd never do it again.

Burn said he would, however, vote again for women's suffrage.

Burn has been prominent in State politics for 55 years, and the folks that know him best have not forgotten his distinguished leadership.

The city of Niota has declared March 17 as Harry T. Burn Day and other communities and groups throughout McMinn County have joined in paying special recognition to Burn.

Among the groups honoring the outstanding legislator this month are the Etowah Rotary Club and the Englewood Lion's Club.

I hope my colleagues will have an opportunity to watch this first episode and see some facinating Tennessee history.

CONSTITUTIONALITY OF CAMPAIGN EXPENDITURE CEILINGS

(Mr. FRENZEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, Mr. Albert D. Cover, a Ph. D. candidate at Yale University, has been working in my office for the past several months as an American Political Science Association Fellow. Mr. Cover's specialty lies in the field of election law.

One of the pieces of research work Mr. Cover has completed is an investigation into the constitutionality of campaign expenditure ceilings.

Whether one believes in campaign expenditure ceilings or not, Mr. Cover's discussion and analysis are particularly interesting, since the House is supposed to consider an election reform bill this month or next. Of special interest is Mr. Cover's discussion of the 1973 Jennings case which has been interpreted by legal students on all sides with no two of them in the same camp for long.

Because of the timeliness of this particular paper, I am including it in the RECORD in its entiretly as follows:

THE CONSTITUTIONALITY OF CAMPAIGN EXPENDITURE CEILINGS

(By Albert D. Cover)

In 1972 Congress enacted the first significant campaign reform legislation since the Federal Corrupt Practices Act of 1925. The Corrupt Practices Act nominally limited political contributions, but its loopholes were numerous and they were commonly exploited. No candidate was ever prosecuted for exceeding the contribution limitations of the Act.[1] With one minor exception the Federal Election Campaign Act of 1971 (FECA) repealed all contribution limitations, but it imposed expenditure limitations for the first time. Realizing that overall spending limitations would be very difficult to enforce, Congress set ceilings only on communications media.[2]

The 1972 election proved somewhat disappointing to those who had hoped FECA would reduce campaign spending and fraud, so more comprehensive reform proposals were introduced in the 93rd Congress. Many of these proposals linked overall spending limitations with some kind of public subsidy for campaigns. The intent of these proposed reforms is clearly praiseworthy. They presumably would foster the ability of less affluent citizens to run for federal office, prevent some well-financed political viewpoints from drowning out all others, and limit the influence of major contributors.[3] More generally, reforms are intended to imbue the electoral process with greater equality of political opportunity.[4]

Congress admittedly has broad powers to regulate the electoral process, but these powers are constitutionally limited ones. Unfortunately, none of the more sweeping proposals answer convincingly a number of grave constitutional questions inherent in attempts to regulate the First Amendment right of free speech. These questions are particularly significant in view of a recent federal court decision declaring unconstitutional the enforcement mechanism of FECA's limitations on media spending.

Section 104(b) of FECA provides that no newspaper may charge for advertisements "on behalf of" a candidate until the candidate certifies to the newspaper that such charges will not cause the candidate to exceed his media spending limitation. Similar certification is required of the candidate who would benefit from an advertisement critical of another candidate.[5] In 1972 the American Civil Liberties Union attempted to place an ad in the *New York Times* opposing legislation to limit court ordered busing. The ad included an "honor roll" of Representatives who had previously opposed this anti-busing policy. The *Times* declined to run the ad until the ACLU had complied with FECA's elaborate certification procedure. The ACLU refused to comply and then sought an injunction against enforcement of FECA's certification procedure on various constitutional grounds. In the fall of 1973 a three-judge federal court handed down its decision in the case, *ACLU* v. *Jennings*.[6]

The most egregious constitutional difficulty discussed in the court's opinion involved prior restraints on free speech arising under FECA's certification procedure. The court pointed out that "candidates favorably named in ads . . . are provided with the opportunity of effectively blocking publication by refusing to make the requisite certification statements. They simply may not desire, for political reasons or otherwise, their names associated with certain organizations. . . . But the airing of opinion in a public forum must not be subordinated to political expediences."

A second problem pointed out in the opinion was the vagueness of certain crucial phrases used in FECA. A major loophole in the old Corrupt Practices Act was that candidates only had to report contributions made with their "knowledge or consent."[7] To close the obvious loophole of limiting only expenditures made with the knowledge or consent of candidates, FECA included in its media limitations spending by or "on behalf of" candidates.

In *ACLU* v. *Jennings* the court repeatedly castigated Congress for its failure to define clearly the crucial phrase. The court was particularly concerned lest nonpartisan and politically unaffiliated groups submit advertisements for print which would be viewed by the media as requiring certification even though the ads were issue oriented. It stressed that the "press is entitled to, and the Constitution demands, proper guidance free from ambiguity and vagueness" to exclude from coverage "expressions of opinion unintended and incapable of regulation." Considering FECA's ill-defined standards and its restriction on First Amendment rights, the court declared Section 104(b) "facially unconstitutional" and therefore enjoined its enforcement. FECA's media limitations were left intact, but they could not be effectively implemented.

Of course the *ACLU* decision could be appealed to the Supreme Court, but it still raises thorny constitutional issues. If Congress engages in further electoral reform, it should face potential constitutional questions straightforwardly. Virtually all reform proposals raise vexing issues. For example, laws intended to improve the disclosure of campaign contributions might impermissibly contravene rights of association and privacy. Public subsidies for campaigns could easily discriminate against minor parties and independent candidates. Potential problems are numerous, and clearly only a small number can be discussed here. This article will focus on the chief issue raised by the *ACLU* decision—can Congress enact enforceable spending limitations while still respecting traditional First Amendment limitations on its powers?

The question could be answered directly if the Supreme Court had previously considered Congress' power to enact general spending limits, but there are no cases directly on this point. The Court has let stand prohibitions on the political activity of government employees and prohibitions on political expenditures by unions and corporations.[8] Based on these decisions a study by Common Cause concluded that "if an absolute ban on the political activities of groups of individuals . . . is permissible, it would seem *a fortiori* acceptable to set a ceiling on contributions and expenditures by individuals."[9]

Two points should be made in reply. First, the Court has carefully exercised its prerogative to decide cases on the narrowest of grounds whenever possible to avoid addressing major constitutional issues. For example, in *United States* v. *CIO*, one of the cases cited by Common Cause, the Court avoided the issue of whether bans on union political contributions were constitutional by dismissing the case on other grounds.[10] The Court did note, however, that if unions were prohibited from communicating with their members then "the gravest doubt would arise in our minds as to its constitutionality."[11] In other cases constitutional issues were sidestepped also.

A second point is that the Court has not considered cases involving *general* prohibitions on political activity in contrast to bans on certain kinds of activity or bans on the political activity of particular groups. There are ample reasons for Congress to forbid certain campaign practices (e.g., bribery), and it is arguable that some groups should have restrictions placed on their political activities. It does not follow that even if the courts directly sustained such restrictions they would approve blanket limitations on the political activities of the electorate.[12]

Lacking any firm judicial guidance on Congress' power to enact spending curbs, we must determine whether political expenditures are covered by the First Amendment's protection of free speech. As a preliminary point, "it is clear that the Amendment at times covers more than sheer verbal communications."[13] The protection of "symbolic speech" has been upheld on many occasions.

Furthermore, debate on public issues seems to be at the heart of what the First Amendment was intended to foster. In *Mills* v. *Alabama* Mr. Justice Black stated for the majority that "whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of the Amendment was to protect free discussion of governmental affairs. This of course includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to the political process."[14]

Footnotes at end of article.

The courts should be especially sensitive, therefore, to limitations on the amount of political information available to the electorate. Clearly spending limitations restrict political communication and infringe on First Amendment rights.[15]

This does not necessarily mean that expenditure ceilings are unconstitutional. Courts have not traditionally viewed First Amendment rights as absolute ones. Under a variety of circumstances their infringement has been sustained by the courts.

For example, under the "clear and present danger" test developed by the judiciary, First Amendment rights can be abridged if laws are needed to forestall some imminent and substantial evil.[16] Although the test has been used in a number of First Amendment cases, it has usually been applied in assessing the constitutionality of laws combating subversion, riot, and the like.[17] Even if we concur with the suggestive language of the Senate Commerce Committee's report on FECA—"the rapidly escalating cost of campaigning for public office poses a real and imminent threat to the integrity of the electoral process"—there are less strained ways to evaluate the validity of spending limits.[18]

A second standard used by the courts is the "balancing" test.[19] As its name implies, the crux of the test is to balance the government's interest in abridging constitutional rights against the individual's right to enjoy constitutionally guaranteed freedoms. In weighing governmental interests versus individual rights, courts are often forced to determine whether there are any "less drastic means" or "less restrictive alternatives" with which societal interests can be advanced.[20] The purpose of this standard is to ensure that if First Amendment rights must be abridged for some legitimate purpose, they will be restricted as little as possible. Therefore, "if expenditure limitations are clearly more restrictive of free expression than any of several alternatives, the Court should declare the spending ceiling unconstitutional and allow Congress to devise an appropriate alternative." [21]

The balancing test raises an extremely difficult question—what is the trade-off between governmental interests and individual rights? How much added equality of political opportunity must be created to outweigh the rights lost by some individuals? We cannot predict with any confidence how the courts would actually resolve this problem. Let us make the heroic assumption, however, that individual rights will be subordinated to governmental interests. Even conceding this, we must still ask whether there are alternatives which do less violence to the First Amendment than do expenditure limits.

Spending ceilings enforce a rough measure of political equality by reducing political communication to some arbitrary, maximum level. They do not guarantee that all viewpoints will be aired but that some viewpoints will receive less exposure than they could otherwise. They not only restrict the rights of candidates and their supporters, but they also ensure that some voters will be deprived of desired information.[22] Of course much campaign activity produces little information for the electorate anyway, but it is far from obvious that the informative core will be preserved by candidates if some activity must be curtailed.

In contrast to expenditure limits, a variety of other devices are available which reduce political inequality by increasing the flow of political information to the electorate. Their intent is not to restrict the activity of some candidates but to ensure that all candidates have at least some opportunity to present their case. They are not completely free of constitutional difficulties, but they are far more consistent with the spirit of the Constitution than are ceilings on political activity. Bcause of this, they raise less substantial constitutional questions.

The most commonly discussed device to guarantee at least a minimum amount of exposure for candidates is direct public subsidies for campaigns. Total public financing raises more constitutional questions than do the infinite variety of possible matching schemes, but all subsidy proposals involve difficulties concerning the equitable treatment of minor parties.

A particularly attractive reform proposal is an expanded system of tax incentives for political contributions.[23] The appeal of this approach is greatly enhanced by its avoidance of major constitutional problems. Unlike direct subsidies, tax incentives do not require Congress to develop any formula for distributing funds. An incentive system "permits the realities of the campaign—the relative importance of the major versus the minor candidates—to be reflected through the separate decisions of millions of taxpayers, thus relieving the government of the necessity and the onus of making those decisions itself." [24]

A practical disadvantage of this approach is that we cannot be sure in advance that it will produce an appreciable change in our campaign finance system. States apparently have had limited success with various tax incentive schemes.[25] It may be necessary, therefore, to provide public subsidies even with an expanded tax incentive system.

Other proposals would serve to increase equality of political opportunity to a lesser extent. The government could subsidize campaign information brochures; all candidates could receive a limited number of postal franks; broadcast advertising rates for political announcements could be reduced or subsidized. By themselves none of these proposals are likely to have much impact, but they do illustrate positive alternatives to expenditure limitations.

Although not often considered in this context, the equal protection doctrine raises further questions about the constitutionality of spending limitations. The crucial issue here is whether ceilings foster an invidious discrimination with respect to some class of candidates. If so, the proposed spending limitations would not be constitutional.

One could argue that spending limitations help challengers as a rule by preventing incumbents from exploiting fully their superior fund-raising capability. For example, in 1972 incumbent Representatives spent on average nearly twice as much as their challengers.[26] A strong counterargument, however, is that relatively few incumbents would actually be forced to curtail spending if Congress enacted "reasonable" ceilings ($90,000–$12,000). On the other hand challengers usually need to outspend incumbents by a substantial margin if they are to win. Only ten incumbent Representatives were defeated in the 1972 general election; on average they spent $40,000 less than their successful opponents.[27] Given the enormous electoral advantage enjoyed by incumbents from other sources, spending ceilings probably discriminate against challengers. A study of campaign financing concluded that "to limit the amount of money which a candidate may spend does not equalize political opportunity; it simply aggravates other inequalities." [28] And these other inequalities favor incumbents.

The list of official allowances and subsidies available to members of Congress is long and diverse. Office equipment, district office rent and equipment, stationery, postage, telephone and telegraph service, travel, printing, government publications, radio and television recording studios, and mass mailing assistance are just a few of the perquisites of office.[29] Between 1961 and 1973 the staff authorized for each Representative rose from nine to seventeen.[30] Since 1960 the volume of franked mail sent from congressional offices has tripled and now exceeds 250 million pieces annually.[31] The point is not that these resources are necessarily turned to overtly political ends but that using them will almost inevitably have beneficial political ramifications.

A neat example of this can be found in the timing of mass mailings from House offices. Many Representatives send out newsletters or questionnaires at the end of each Congress. This is a logical time to report on congressional affairs, but it also happens to mark the beginning of intensive pre-election campaigning. The pre-election increase in mass mailings is reflected in the work load of the House "folding room," more formally known as the Publications Distribution Service. The folding room has special facilities to handle mass mailings, so most of them are prepared there. As we would expect, the peak work load occurs immediately before an election.[32]

By keeping in touch with constituents, members help overcome the chief political handicap that faced many of them initially—the fact that relatively few voters knew them at all when they entered politics. Members understand very well Stokes and Miller's conclusion that "recognition carries a positive valence; to be perceived at all is to be perceived favorably." [33] One of the greatest political advantages of incumbency flows from this quite straightforwardly. As a rule incumbents are much more widely known than are their challengers. To the extent that spending limitations prevent a challenger from overcoming this recognition advantage, limitations make incumbents less vulnerable at the polls.[34]

The situation confronting challengers is illustrated in Table I. In House districts contested by an incumbent, about half the adults were unable to recall either candidate's name shortly after the 1964 and 1968 elections; almost two-thirds of the adults recognized neither candidate after recent mid-term elections. At best only a third of those surveyed could recall the names of both candidates. Most importantly, while 20 per cent of those surveyed know only the incumbent's name, a mere 1 or 2 per cent recognized the challenger exclusively. These figures help explain why challengers must substantially outspend incumbents to defeat them and why spending limitations would operate to entrench incumbents even more deeply than they are now.[35]

TABLE 1.—RECOGNITION OF INCUMBENTS AND CHALLENGERS IN POST-ELECTION SURVEYS

Year	Respondent recognized (percent)			
	Challenger only	Incumbent only	Both	Neither
1964	1.8	20.5	31.7	46.1 (n=1,256).
1966	1.0	18.1	19.6	61.3 (n=1,188).
1968	2.3	17.9	31.4	48.4 (n=1,224).
1970	1.0	21.5	11.9	65.9 (n=1,374).

If further electoral reforms are enacted, the government's interest in fostering political equality must be reconciled with the right of individuals to exercise their constitutionally guaranteed freedoms. Unfortunately, current measures do not indicate that constitutional issues have been seriously considered. The problems are admittedly difficult ones; but if Congress ignores the substantial conflict arising from attempts to reform the electoral process, then the courts will be left with the task of fashioning an acceptable solution. The prospect of having major electoral rules re-written by the courts should prod Congress into considering the constitutional issues likely to be raised there.

FOOTNOTES

[1] "Comment," 60 *The Georgetown Law Journal* 1310–11 (1972).

[2] S. Rept. 92–96 (1971), pp. 30–33.

[3] *Federal Election Reform: Hearings Before the Subcommittee on Elections of the Committee on House Administration*, 93rd Cong., 1st Sess., p. 401.

[4] J. Fleishman, "Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971," 51 *North Carolina Law Review* 455 (1973); I. Ferman, "Congressional Controls on Campaign Financing: An Expansion or Contraction of the First Amendment?" 22 *American University Law Review* 360 (1972).

[5] 11 C.F.R. Section 4.5(a).

[6] *ACLU* v. *Jennings*, — F. Supp. — (D.C. D.C., November 14, 1973).

[7] 2 U.S.C. Section 246(a) (1970).

[8] Fleishman, pp. 434–38.

[9] *Federal Election Reform*, p. 404.

[10] 335 U.S. 106 (1948).

[11] 335 U.S. at 121. For a brief discussion of this case and the other labor cases see Robert Burdette, "Brief Reply to Common Cause Memo of February 5, 1974, Discussing the Holding of *ACLU* v. *Jennings* (Washington: Congressional Research Service, February 14, 1974), pp. 2–3.

[12] Fleishman, p. 434.

[13] *Federal Election Reform*, p. 401. Also see citations given there.

[14] *Mills* v. *Alabama*, 384 U.S. 218, 219 (1966). Also see Fleishman, p. 409.

[15] For example, see Ralph K. Winter, Jr., "Money, Politics, and the First Amendment," in *Campaign Finances: Two Views of the Political and Constitutional Implications*, by Howard R. Penniman and Ralph K. Winter, Jr. (Washington: American Enterprise Institute, n.d.), p. 60.

[16] Ferman, pp. 351–52; H. Court and C. Harris, "Free Speech Implications of Campaign Expenditure Ceilings," 7 *Harvard Civil Rights—Civil Liberties Law Review* 221 (1972).

[17] For example, *Dennis* v. *United States*, 341 U.S. 494 (1951); *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969); Court and Harris, p. 221.

[18] Quoted in Court and Harris, p. 222.

[19] Fleishman, pp. 408–09. For another formulation see Ferman, pp. 356–57.

[20] *Federal Election Reform*, p. 407; Court and Harris, p. 224; M. Redish, "Campaign Spending Laws and the First Amendment," 46 *New York University Law Review* 923–24 (1971).

[21] Court and Harris, p. 225.

[22] Fleishman, p. 409. Also see *United States* v. *CIO* 335 U.S. 106, 144 (1948).

[23] A. Rosenthal, "Campaign Financing and the Constitution," 9 *Harvard Journal of Legislation* 329–31 (1972).

[24] Ibid., p. 330.

[25] *Public Financing of Federal Elections: Hearings Before the Subcommittee on Privileges and Elections of the Committee on Rules and Administration*, 93rd Cong., 1st Sess., p. 187.

[26] "Common Cause: Incumbents Do Raise More Funds," *Congressional Quarterly Weekly Report*, XXXI, 48 (December 1, 1973), p. 3130.

[27] Ibid.

[28] Winter, p. 56.

[29] Many of these are described in Donald G. Tacheron and Morris K. Udall, *The Job of a Congressman: An Introduction to Service in the U.S. House of Representatives* (Indianapolis: The Bobbs-Merrill Company, 1966).

[30] Harrison W. Fox, Jr. and Susan Webb Hammond, "Congressional Staffs and Congressional Change," Paper Presented at the American Political Science Association (New Orleans: September, 1973), p. 8.

[31] Representative Bill Frenzel, "Election Reform Bill Expected in March," *Congressional Record*, vol. 119, pt. 33, p. 43602.

[32] Ibid. Representative Frenzel's remarks include monthly data from January 1967 through December 1972. A new franking law forbids most mass mailings immediately before elections, so presumably the peak work load will be somewhat earlier in the future.

[33] Donald Stokes and Warren Miller, "Party Government and the Saliency of Congress," *Public Opinion Quarterly*, XXVI (1962), p. 541.

[34] This is not to say that electoral suicide is impossible. An incumbent must continue to answer mail, vote correctly on salient issues, and so forth.

[35] The data was supplied by the Inter-University Consortium for Political Research. Of course, the ICPR is not responsible for any conclusions drawn from this analysis. It may be useful to emphasize that the data comes exclusively from House districts having an incumbent in the appropriate election.

PROPOSED AMENDMENTS TO H.R. 69

(Mr. MEEDS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MEEDS. Mr. Speaker, pursuant to previous unanimous-consent agreement, I hereby insert in the RECORD an amendment I propose to offer to title I of H.R. 69, as reported.

I am presenting my proposed amendment in two forms either of which will have an identical result in the wording of section 132 of the Elementary and Secondary Education Act of 1965. I present them in this fashion so that the effect of the amendment can be readily understood.

The proposed amendment follows:

AMENDMENT TO H.R. 69

Amend Section 109 of the bill by:

(1) Striking all the language after "arrangements" on line 8, page 49, down through line 11 on page 49 and substituting in lieu thereof: "(such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of Section 131, paragraph (2) of subsection (a) of such Section, and clauses (A) and (B) of paragraph (3) of subsection (a) of said Section.";

(2) By striking the words "may waive such requirement" on line 16, page 49, and substituting in lieu thereof the words "shall waive such requirement and the provisions of Section 131(a)(2)";

(3) Inserting after "subsection (a)" on page 50, line 2, the words "upon which determination the provisions of paragraph (a) and Section 131(a)(2) shall be waived"; and

(4) Adding after line 7 on page 50 the following new paragraph:

"(4)(i) The Commissioner shall not take any final action under this Section or Section 807 (d), (e), or (f) until he has afforded the State and local educational agency affected by such action at least 60 days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(ii) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subsection (a), it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(iii) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(iv) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

ALTERNATE FORM OF MEEDS AMENDMENT

Beginning with line 1 on page 49, strike out everything down through line 7 on page 50 and insert in lieu thereof the following:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 132. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 131, paragraph (2) of subsection (a) of such section and clauses (A) and (B) of paragraph (3) of subsection (a) of said section.

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commission shall waive such requirement and the provisions of section 131(a)(2) and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) upon which determination the provisions of paragraph (a) and section 131(a)(2) shall be waived.

"(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title."

"(4)(i) The Commissioner shall not take any final action under this section or section 807(d), (e), or (f) until he has afforded the State and local educational agency affected by such action at least 60 days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(ii) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subsection (a), it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(iii) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify

his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(iv) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, H.R. 69, the Elementary and Secondary Education Amendments of 1974, as reported by the House Education and Labor Committee, inadvertently failed to provide adequate authorization for the offshore areas—Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. To correct this situation, I intend to offer an amendment to title I of H.R. 69 which reads as follows:

Amendment to be offered by Mrs. Mink to Title I of H.R. 69: "The first sentence of Section 103(a)(1), beginning on line 13 on page 28, is amended to read as follows: 'Sec. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection), provided, however, there shall be authorized such additional sums to assure at least the same level of funding under this Title as in FY 1973 for Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.'"

AMENDMENTS TO H.R. 69

(Mr. SYMMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SYMMS. Mr. Speaker, myself or other Members will offer the following amendments to H.R. 69 when the House resumes consideration of this bill:

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"PROTECTION OF PUPIL RIGHTS

"SEC. 1010. No program shall be assisted under this Act, or under title I of the Elementary and Secondary Education Act of 1965, under which teachers or other school employees, or other persons brought into the school, use psychotherapy techniques such as group therapy or sensitivity training. As used in this section, group therapy and sensitivity training mean group processes where the student's intimate and personal feelings, emotions, values, or beliefs are openly exposed to the group or where emotions, feelings, or attitudes are directed by one or more members of the group toward another member of the group or where roles are assigned to pupils for the purpose of classifying, controlling, or predicting behavior.".

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"PROTECTION OF PUPIL RIGHTS

"SEC. 1010. Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a way as to authorize the participation or use of any child in any research or experimentation program or project, or in any pilot project, without the prior, informed, written consent of the parents or legal guardians of such child. All instructional material, including teachers' manuals, films, tapes, or other supplementary instructional materials which will be used in connection with any such program or project shall be available for review by the parents or guardians upon verified request prior to a child's being enrolled or participating in such program or project. As used in this section, 'research or experimentation program or project, or pilot project' means any program or project designed to explore or develop new or unproven teaching methods or techniques.".

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

PROTECTION OF PUPIL RIGHTS

"SEC. 1010. Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a manner as to infringe upon or usurp the moral or legal rights or responsibilities of parents or guardians with respect to the moral, emotional, or physical development of their children.".

AMENDMENT TO H.R. 69, AS REPORTED

Page 82, strike out line 1 through line 13, and insert in lieu thereof the following:

"(b) The second sentence of section 301 (b) of the Act is amended by inserting immediately after "succeeding fiscal years" the following: "ending prior to July 1, 1974"."

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

LIMITATION ON AVAILABILITY OF CERTAIN FUNDS

SEC. 906. Section 303 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Funds appropriated pursuant to section 301 shall be available only for the support of programs or projects designed to assist in the cognitive development of students, as opposed to their social development or behavioral modification.".

AMENDMENT TO BE OFFERED BY MR. SYMMS OF IDAHO

I move that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RANGEL (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. PRICE of Texas (at the request of Mr. RHODES), for today, on account of official business.

Mr. METCALFE (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. CRANE (at the request of Mr. HEINZ), for 5 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. DOMINICK V. DANIELS (at the request of Mr. BOWEN), for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. HEINZ) to revise and extend their remarks and include extraneous matter:)

Mr. STEELMAN, for 5 minutes, today.

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. DON H. CLAUSEN, for 30 minutes, today.

Mr. LENT, for 5 minutes, today.

Mr. HOGAN, for 5 minutes, today.

Mr. MCDADE, for 15 minutes, today.

Mr. BOB WILSON, for 60 minutes, on March 25.

Mr. RUPPE, for 5 minutes, today.

(The following Members (at the request of Mr. RIEGLE) to revise and extend their remarks and include extraneous material:)

Mr. FORD, for 5 minutes, today.

Mr. BURTON, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. O'HARA, for 10 minutes, today.

Ms. ABZUG, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PERKINS, at the request of Mr. THOMPSON of New Jersey, to follow the remarks of Mr. THOMPSON of New Jersey during consideration of the funding resolution for Committee on Education and Labor (H. Res. 855) in the House today.

Mr. FRENZEL, and to include extraneous matter notwithstanding the fact it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $470.25.

(The following Members (at the request of Mr. HEINZ), and to include extraneous material:)

Mr. PEYSER in five instances.

Mr. VEYSEY in two instances.

Mr. WYMAN in two instances.

Mr. HOSMER in two instances.

Mr. BOB WILSON in two instances.

Mr. FRENZEL in two instances.

Mr. WALSH.

Mr. KEMP in three instances.
Mr. STEIGER of Wisconsin in two instances.
Mr. CONLAN in two instances.
Mr. MCCLOSKEY.
Mr. ESCH.
Mr. RAILSBACK.
Mr. HUNT.
Mr. YOUNG of South Carolina.
Mr. BAKER in two instances.
Mr. HUBER in two instances.
Mr. HEINZ in two instances.
Mr. SHUSTER.
Mr. PETTIS in three instances.
Mr. BROOMFIELD.
(The following Members (at the request of Mr. RIEGLE) and to include extraneous material:)
Mr. WOLFF in five instances.
Mr. REID.
Mr. GUNTER in two instances.
Mr. BIAGGI in five instances.
Mr. REES.
Mr. BRADEMAS in six instances.
Mr. BURTON in two instances.
Mr. DAN DANIEL.
Mr. STOKES in six instances.
Mr. UDALL in five instances.
Mr. FULTON.
Miss JORDAN.
Mr. CHARLES H. WILSON of California in three instances.
Mr. CORMAN in three instances.
Mr. RARICK in three instances.
Mr. GONZALEZ in three instances.
Mr. EVINS of Tennessee in three instances.
Mr. EDWARDS of California.
Mr. TAYLOR of North Carolina.
Mr. CONYERS in 10 instances.
Mr. HÉBERT in two instances.
Mr. PIKE.
Mr. WALDIE in two instances.
Mr. ANDERSON of California in two instances.
Mr. GINN.
Mr. HUNGATE.
Mr. STUDDS in two instances.
Mr. ROSE.
Mr. KOCH in five instances.
Mr. KYROS.
Mr. O'HARA.
Ms. ABZUG in two 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. 1353. An act to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste material; to the Committee on Merchant Marine and Fisheries.

S. 1401. An act to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

S. 3075. An act to amend the Agricultural Adjustment Act of 1938; to the Committee on Agriculture.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on March 13, 1974, present to the President, for his approval a bill of the House of the following title:

H.R. 6119. An act for the relief of Arturo Robles.

ADJOURNMENT

Mr. BOWEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until Monday, March 18, 1974, 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:

2047. A letter from the Administrator of General Services, transmitting the statistical supplement to the report on the stockpiling of strategic and critical materials for the 6 months ended December 31, 1973, pursuant to 50 U.S.C. 98c; to the Committee on Armed Services.

2048. A letter from the Chairman, National Commission on Productivity, transmitting the third annual report of the Commission, pursuant to Public Law 92-210; to the Committee on Banking and Currency.

2049. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report covering calendar year 1973 on third country transfers of U.S. origin defense articles to which consent has been granted under the provisions of section 3(a)(2) of the Foreign Military Sales Act of 1968, as amended, and section 505(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2050. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the appropriation authorization for reporting of weather modification activities; to the Committee on Interstate and Foreign Commerce.

2051. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting a report for the month of January 1974, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. H.R. 2637. A bill for the relief of the estate of Peter Boscas, deceased; with an amendment (Rept. No. 93-910). Referred to the Committee of the Whole House.

Mr. FROEHLICH: Committee on the Judiciary. H.R. 8543. A bill for the relief of Viorica Anna Ghitescu, Alexander Ghitescu, and Serban George Ghitescu. (Rept. No. 93-911). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1206. An act for the relief of Concepcion Velasquez Rivas; with amendments (Rept. No. 93-912). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 13487. A bill to provide financial assistance and other aid to railroads and railroad-related companies to acquire and improve equipment and facilities necessary for better utilization of rolling stock to meet the needs of commerce and the national defense, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of California (for himself and Mr. STEELE):

H.R. 13488. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

By Mr. COHEN:

H.R. 13489. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities; to the Committee on Ways and Means.

By Mr. COHEN (for himself and Mr. ESCH):

H.R. 13490. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

By Mr. CONYERS:

H.R. 13491. A bill to establish certain rules with respect to the appearance of witnesses before grand juries in order better to protect the constitutional rights and liberties of such witnesses under the fourth, fifth, and sixth amendments to the Constitution; to provide for independent inquiries by grand juries, and for other purposes; to the Committee on the Judiciary.

By Mr. DIGGS:

H.R. 13492. A bill to require licensed undertakers in the District of Columbia to furnish financial statements when funeral arrangements are made; to the Committee on the District of Columbia.

By Mr. FRENZEL (for himself, Mr. ASHLEY, Mr. BROWN of Michigan, Mr. CLEVELAND, Mr. CONTE, Mr. COTTER, Mr. COUGHLIN, Mr. CRONIN, Mr. GILMAN, Mr. MOAKLEY, Mr. ROE, Mr. STEIGER of Wisconsin, and Mr. WILLIAMS):

H.R. 13493. A bill to improve the quality, reliability, and usefulness of data on urban mass transportation systems and on other urban transport operations, systems, and services; to the Committee on Banking and Currency.

By Mr. FREY:

H.R. 13494. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. FULTON:

H.R. 13495. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling waste paper; to the Committee on Ways and Means.

By Mr. GUNTER (for himself, Mr. SEIBERLING, Mr. EDWARDS of California, Mr. TIERNAN, Mr. BROWN of California, Mr. PEPPER, Mr. WHITEHURST, Mr. RIEGLE, Ms. ABZUG, Mr. WALDIE, Ms. SCHROEDER, Mr. BURKE of Massachusetts, Mr. MILLER, and Mr. THOMPSON of New Jersey):

H.R. 13496. A bill to amend the Internal Revenue Code of 1954 to provide for the suspension of excise taxes on diesel fuel and special motor fuels, and to roll back the prices for such products; to the Committee on Ways and Means.

By Mr. HALEY:

H.R. 13497. A bill to commemorate the American Revolution Bicentennial by establishing a meeting house program, by making grants available to each of the several States for the purpose of acquiring and restoring certain historic sites with a view to designating and preserving such sites for use as meeting houses in connection with such bi-

centennial, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HARRINGTON:

H.R. 13498. A bill to amend the Federal Power Act to prohibit public utilities from increasing any rate or charge for electric energy, by means of any fuel adjustment clause in a wholesale rate schedule, in order to reflect more than 50 percent of any increased fuel cost; to the Committee on Interstate and Foreign Commerce.

By Mr. HARSHA:

H.R. 13499. A bill to amend section 402 of title 23, United States Code, relating to seatbelts; to the Committee on Public Works.

By Mr. HECHLER of West Virginia:

H.R. 13500. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages; to the Committee on Ways and Means.

H.R. 13501. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 13502. A bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland if it continues to be used as such; to the Committee on Ways and Means.

By Mr. HOWARD:

H.R. 13503. A bill to amend title 38, United States Code, to improve the veterans' education loan program, to authorize an action plan for employment of disabled and Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 13504. A bill to amend title 38 of the United States Code in order to increase the rates of educational assistance allowances; to provide for the payment of tuition, the extension of educational assistance entitlement, acceleration of payment of educational assistance allowances, and expansion of the work-study program; to establish a Vietnam Era Veterans Communication Center and a Vietnam Era Advisory Committee; and to otherwise improve the educational and training assistance program for veterans; to the Committee on Veterans' Affairs.

By Mr. JOHNSON of Pennsylvania:

H.R. 13505. A bill to prohibit the exportation of fertilizer from the United States until the Secretary of Agriculture determines that an adequate domestic supply of fertilizer exists; to the Committee on Banking and Currency.

By Mr. KOCH (for himself, Ms. ABZUG, Mr. BADILLO, Mr. BROWN of California, Mr. DELLUMS, Mr. EDWARDS of California, Mr. MITCHELL of Maryland, Mr. NIX, Mr. RIEGLE, and Mr. YOUNG of Georgia):

H.R. 13506. A bill to amend title 38 of the United States Code in order to provide veterans' educational assistance and home loan benefits to individuals who fulfill their obligation to perform alternative civilian service under the selective service laws; to the Committee on Veterans' Affairs.

By Mr. LAGOMARSINO:

H.R. 13507. A bill to authorize the Secretary of the Interior to acquire private lands in California for water quality control, recreation, and fish and wildlife enhancement, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEHMAN:

H.R. 13508. A bill to establish a universal food service program for children; to the Committee on Education and Labor.

By Mr. McKINNEY (for himself and Mr. SARASIN):

H.R. 13509. A bill to amend the Internal Revenue Code of 1954 to allow any State an additional year in which to repay advances made before January 1, 1974, to the unemployment account of such State under title XII of the Social Security Act; to the Committee on Ways and Means.

By Mr. McSPADDEN:

H.R. 13510. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of professional standards review organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. DE LUGO, Mr. VANDER VEEN, Mr. COTTER, Mr. RUPPE, Mr. GREEN of Pennsylvania, Mr. MURTHA, Mr. STOKES, and Mr. BURKE of Massachusets):

H.R. 13511. A bill to provide assistance and full time employment to persons who are unemployed and underemployed as a result of the energy crisis; to the Committee on Education and Labor.

By Mr. MOSS (for himself, Mr, DINGELL, Mr. ROONEY of Pennsylvania, Mr. ADAMS, Mr. ECKHARDT, Mr. PODELL, Mr. HELSTOSKI, Mr. CARNEY of Ohio, Mrs. SULLIVAN, Mr. REUSS, Mr. ASHLEY, Mr. CORMAN, Mr. HARRINGTON, and Ms. ABZUG):

H.R. 13512. A bill to regulate commerce and amend the Natural Gas Act so as to provide increased supplies of natural gas, oil, and related products at reasonable prices to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOSS (for himself, Mr. METCALFE, Ms. CHISHOLM, Mrs. COLLINS of Illinois, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. FOLEY, Mr. FORD, Mr. HECHLER of West Virginia, Ms. HOLTZMAN, Mr. JONES of North Carolina, Mr. MEEDS, Mr. MORGAN, Mr. NIX, Mr. OBEY, Mr. O'HARA, Mr. RYAN, Ms. SCHROEDER, Mr. STUDDS, Mr. CHARLES H. WILSON of California, Mr. YATRON, and Mr. WON PAT):

H.R. 13513. A bill to regulate commerce and amend the Natural Gas Act so as to provide increased supplies of natural gas, oil, and related products at reasonable prices to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 13514. A bill to amend the Public Health Service Act to extend to commissioned officers of the Service the benefits and immunities of the Soldiers and Sailors' Civil Relief Act of 1940, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. NEDZI:

H.R. 13515. A bill to provide that the incumbent Librarian of Congress shall on certain conditions be deemed a congressional employee for civil service retirement purposes; to the Committee on House Administration.

By Mr. PIKE:

H.R. 13516. A bill to amend the Small Business Act to provide low-interest operating loans to small businesses seriously affected by a shortage in energy-producing materials; to the Committee on Banking and Currency.

By Mr. RAILSBACK (for himself, Mr. DU PONT, and Mr. HARRINGTON):

H.R. 13517. A bill to provide for appropriate access by the Congress to information required in connection with proceedings relating to the impeachment of the President or the Vice President; to the Committee on the Judiciary.

By Mr. REID:

H.R. 13518. A bill to amend the Social Security Act to extend entitlement to health care benefits on the basis of age under the Federal medical insurance program (medicare) to all persons who are citizens or residents of the United States aged 65 or more; to add additional categories of benefits under the program (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices) for all persons entitled (whether on the basis of age or disability) to the benefits of the program; to extend the duration of benefits under the program where now limited; to eliminate the premiums now required under the supplementary medical insurance benefits part of the medicare program and merge that part with the hospital insurance part; to eliminate all deductibles; to eliminate copayments for low-income persons under the program, and to provide, for others, copayments for certain services or items but only up to a variable income-related out-of-pocket expense limit (catastrophic expense limit); to provide for prospective review and approval of the rates of charges of hospitals and other institutions under the program, and for prospective establishment (on a negotiated basis when feasible) of fee schedules for physicians and other practitioners; to revise the tax provisions for financing the medicare program and increase the Government contribution to the program; and for other purposes; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 13519. A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 13520. A bill to amend the Railroad Retirement Act of 1937 to reduce from 65 to 60 the age at which a full spouse's annuity becomes payable (with a reduced annuity becoming payable at age 58); to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 13521. A bill to amend the Federal Election Campaign Act of 1971 to improve the manner federal election campaigns are conducted; to the Committee on House Administration.

By Mr. SARASIN (for himself, Mr. FARRIS, Mr. BADILLO, Mr. BLACKBURN, Mr. BROWN of California, Mr. DERWINSKI, Mr. GILMAN, Mr. HASTINGS, Mrs. HECKLER of Massachusetts, Mr. HOGAN, Mr. RIEGLE, and Mrs. SCHROEDER):

H.R. 13522. A bill to amend the Internal Revenue Code of 1954 to temporarily reduce the excise tax on gasoline by 2 cents per gallon; to the Committee on Ways and Means.

By Mr. SHIPLEY:

H.R. 13523. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. STEELE (for himself and Mr. BIESTER):

H.R. 13524. A bill to provide financial assistance to the States for improved educational services for exceptional children; to establish a National Clearinghouse on Exceptional Children; and for other purposes; to the Committee on Education and Labor.

By Mr. STEELMAN:

H.R. 13525. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Missouri (for himself, Mr. STEED, and Ms. HOLTZMAN):

H.R. 13526. A bill to amend the Emergency Petroleum Allocation Act of 1973 to roll back the price of propane gas; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE:

H.R. 13527. A bill to amend the Emergency Petroleum Allocation Act of 1973 to roll back

the price of propane gas; to the Committee on Interstate and Foreign Commerce.

By Mr. VANIK (for himself, Mr. BADILLO, Mr. DINGELL, Mr. DRINAN, Mr. EILBERG, Mrs. GRASSO, Mr. GRAY, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Ms. HOLTZMAN, Mr. MOSS, Mr. NIX, Mr. PODELL, Mr. RODINO, Mr. ROSENTHAL, Mr. SEIBERLING, Mr. STARK, and Mr. WALDIE):

H.R. 13528. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on certain inventories of gasoline, crude oil, and petroleum products, for the purpose of discouraging the accumulation of such commodities in excess of the reasonable demands of industrial, business, or residential consumption; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 13529. A bill to terminate the airlines mutual aid agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAMS:

H.R. 13530. A bill to prohibit the transportation by water of merchandise between the United Sttaes and the Virgin Islands except in vessels built in, and documented under the laws of, the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. BOB WILSON:

H.R. 13531. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the survivor benefit plan; to the Committee on Armed Services.

H.R. 13532. A bill to amend the Internal Revenue Code of 1954 to allow the nonrecognition of the gain from the sale of the principal residence of a member of the Armed Forces who is required to reside in Government-owned quarters if a new residence is purchased within 1 year after such member is no longer required to reside in such quarters; to the Committee on Ways and Means.

By Mr. BRINKLEY:

H.J. Res. 939. Joint resolution to designate the third week of September of each year as "National Medical Assistants' Week"; to the Committee on the Judiciary.

By Mr. ASHBROOK:

H. Res. 983. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

By Mr. JOHNSON of Pennsylvania:

H. Res. 984. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

By Mr. McSPADDEN (for himself, Mr. JARMAN, Mr. STEED, Mr. CAMP, Mr. JONES of Oklahoma, and Mr. ALEXANDER):

H. Res. 985. Resolution on the seriousness of the fertilizer shortage; to the Committee on Agriculture.

By Mr. MEZVINSKY:

H. Res. 986. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

379. By Mr. HANSEN of Idaho: A memorial of the Legislature of the State of Idaho, relative to the streamflow of the Snake River; to the Committee on Interior and Insular Affairs.

380. By the SPEAKER: A memorial of the Senate of the State of Oklahoma, relative to Environmental Protection Agency regulations concerning the production of crude oil; to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FLYNT:

H.R. 13533. A bill for the relief of Stephen A. G. Goddard; to the Committee on the Judiciary.

By Mr. REES:

H.R. 13534. A bill for the relief of Ester Libkind; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

404. The SPEAKER presented a petition of the Board of Administration, Department of Oklahoma, Veterans of World War I of the U.S.A., Inc., relative to amnesty; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

CATTLEMEN LOSING MONEY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. COLLINS of Texas. Mr. Speaker, a year ago the newspapers and television were crowded with the news that the cost of meat was pretty high. Ladies were striking at the grocery stores. Everyone was complaining about it.

Now the shoe is on the other foot and the cattlemen are losing money raising beef. I was not aware of this situation as I do not have a cattle rancher in my district and it is not publicized in the news.

Last week I was talking to a rancher and he told me about the poor financial condition that they are now in. Yesterday, buried over in the middle of the third section of the newspaper, I saw another story that got more specific about it.

In August of 1973, live cattle soared to record levels, with choice steer reaching a peak of $58 per hundred pounds. This same type of beef steer sold this week for $41 to $42 per hundred pounds. This is a good drop in price, but where the cattle feeders are getting caught in the middle is the fact that the price of corn has gone skyrocketing. Corn is now moving at $3 a bushel, and this means that feeding cattle represents a tremendous loss. I read of an example where a man and wife, with no hired labor, ran a 274-acre farm. They are raising 300 cattle per year. Under today's present cost of feeding cattle, they are losing $114 a head. This means they are losing over $34,000 this year, and for a small operator, that would take him completely out of the market.

When we are quick to criticize a cattle rancher, we do not always stop to realize that he is also caught in the middle of inflation. If he is feeding cattle to round them out, he must be buying a lot of corn. When he is paying $3 a bushel for corn, it is going to cost him more per pound. With the natural law of economics governing supply and demand, the excess cattle that are now available have forced the market price down.

As this cycle gradually eases out we will see higher beef prices, because the inevitable inflationary influences will take place. An interesting phase of this development is the fact that we tried to control the prices of beef. Control did not work, as it will not work for oil, gas, or for any other commodity. The other interesting feature is that, although cattlemen were severely criticized only 7 months ago as being big profiteers, they are now, in this very short time, losing more than they made last year. I have not heard any newsman come forward and express sorrow or regret at the tremendous losses that the cattlemen are now taking.

It is another example of the fact that price controls will not work. The cattlemen would have been better off if we had never tried to control the price; if we would have let them continue all last summer to place the cattle in the market in an orderly manner, we would have been able to maintain a more orderly price ratio in the market. I am hoping that the law of supply and demand will encourage greater agricultural production, so that the price of feeds will drop back to a lower, more balanced ratio.

Price control will never work. The cause of inflation in this country is the fact that we have excessive Government spending in Washington. The first term that Lyndon Johnson was President, his budget was $100 billion. Ten years later, this Congress is discussing a $304 billion budget. As long as Congress continues to overspend and to go in for excessive Government spending, we are leading this country into excessive inflation. We must balance the budget and we must reduce excessive Federal spending.

THIS LIFE WE TAKE

HON. VANCE HARTKE

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 13, 1974

Mr. HARTKE. Mr. President, the Friends Committee on Legislation published an article entitled "This Life We Take" by Trevor Thomas which is a case against the death penalty. While the Senate debates the question whether to reimpose the death penalty in the United States in certain circumstances, we must be ever cognizant of the right to life.

The interest in which this distinguished body must consider whether to take the life of another voluntarily must be with an eye on the direction of civilization. Let us all lend our support to the direction which will lead men from violence.